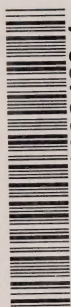


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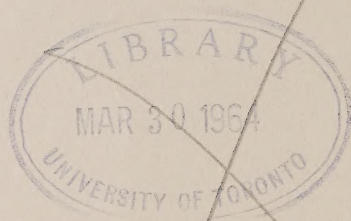
RESTRICTIVE TRADE PRACTICES COMMISSION

# REPORT

Concerning the Manufacture, Distribution and  
Sale of Transparent Packaging Products  
and Related Products

DEPARTMENT OF JUSTICE  
OTTAWA

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1960



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RESTRICTIVE TRADE PRACTICES COMMISSION

R E P O R T

CONCERNING THE MANUFACTURE, DISTRIBUTION AND  
SALE OF TRANSPARENT PACKAGING PRODUCTS  
AND RELATED PRODUCTS

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COMBINES INVESTIGATION ACT

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Ottawa  
1960

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1960


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RESTRICTIVE TRADE PRACTICES COMMISSION

Room 451, Justice Building  
Ottawa, December 6, 1960

Honourable E. Davie Fulton, P.C., Q.C., M.P.,  
Minister of Justice,  
Ottawa.

Dear Sir:

I have the honour to submit to you herewith the report of the Restrictive Trade Practices Commission dealing with transparent packaging products and related products.

The matter was brought before the Commission by the submission of a statement of the evidence obtained in the inquiry by the Director of Investigation and Research under the Combines Investigation Act and has been dealt with in accordance with the provisions of Sections 18 and 19 of the Act.

Argument on the Statement of Evidence was heard in proceedings before the Commission in Ottawa on May 9 and 10, 1960. At these proceedings Messrs. F.C. Gascoigne, J.J. Quinlan and A.C. Whealy appeared on behalf of the Director of Investigation and Research, and Messrs. A.J. MacIntosh, Hazen Hansard, Q.C., J.A. Langford, I. Nitikman, Q.C., R.F. Wilson, Q.C., E.L. Weldon, M. Gingera, J.D. Arnup, Q.C., W.S. Sewell, Q.C., P.H. Sims, M. Shacter, W.S. Gray, Q.C., D.A.L. Britnell, R. de Wolfe MacKay, Q.C. and W.E. Bronstetter appeared on behalf of the parties mentioned in the Statement of Evidence.

Yours faithfully,

(Sgd.) C. Rhodes Smith

C. Rhodes Smith  
Chairman





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## CHAPTER I

### INTRODUCTION

#### 1. Reference to the Commission

This inquiry, which was conducted by the Director of Investigation and Research, was brought before the Restrictive Trade Practices Commission under the provisions of Section 18 of the Combines Investigation Act by the submission of a statement of the evidence obtained in the inquiry. Also in accordance with the provisions of Section 18 the Director advised that he was submitting copies of the Statement of Evidence, which was dated December 31, 1959, to each of the parties against whom allegations were made therein.

#### 2. Allegations Made in the Statement of Evidence

The specific allegations of the Director are set out in the following paragraph from the Statement of Evidence:

"256. It is alleged, therefore, that during the period from about December 1953 to the end of May 1956 the following companies entered into a combination by way of arrangements having or designed to have the effect of fixing common prices for, and preventing or lessening competition in the distribution and sale of custom-printed bags, sheets and rolls made of cellophane, polyethylene and other transparent film, which combination operated and was likely to operate to the detriment or against the interest of the public within the meaning of the Combines Investigation Act. The arrangements also prevented or lessened competition unduly, in the distribution and sale of such packaging products contrary to Section 411 of the Criminal Code\*:

---

\* Section 411 of the Criminal Code was incorporated in Section 32 of the Combines Investigation Act on August 10, 1960 by "An Act to amend the Combines Investigation Act and the Criminal Code", S.C. 1960, c. 45.



Bradshaw's Limited  
C. W. Younger & Company Limited  
Campbell Containers Limited  
Canada Foils, Limited  
The Continental Paper Products, Limited  
John Dickinson & Co. (Canada) Limited  
Dominion Envelope Company Limited  
E. S. & A. Robinson (Canada) Limited  
James T. Punfield Limited  
Mastex Limited  
Nor Baker Limited  
National Carton Specialties Limited, chiefly through  
its associated company, Pakit Inc.  
Polycraft Company Limited  
Polyethelene Bag Mfg. Co. Ltd.  
Transparent Paper Products Limited  
Globe Paper Box Company Limited, chiefly through  
its associated company, Visipak Limited  
Web Wrappings Limited  
Wedlock Paper Bag Company Limited.

Haugh-Gordon Limited participated in the formation of the Association but the evidence does not establish that it participated in the alleged agreements. Wedlock Paper Bag Company Limited apparently withdrew from the agreement in March 1955, and Transparent Paper Products Limited withdrew in October 1955. Web Wrappings Limited withdrew on March 1, 1956, and has since gone bankrupt. John Dickinson & Co. (Canada) Limited withdrew in March 1956, when the company discontinued manufacture of the products involved. C. W. Younger & Company Limited was the original association secretary and is defunct. James T. Punfield Limited was its successor."

What was stated on behalf of the Director at the hearing before the Commission to be descriptive of the combination but not to constitute the formal allegations is contained in the following paragraphs of the Statement:

"253. The evidence which has been outlined in this Statement of Evidence shows that the principal converters of cellophane, polyethylene and related transparent packaging materials into printed bags, sheets and rolls were parties to the formation and operation of an association whose principal function was the establishment of agreed-upon costing formulas. These costing formulas, together with agreed-upon standard terms and conditions of sale and lists of agents and distributors, were by mutual consent used by the said converters as minimum prices, terms and conditions in the sale

of the products involved, in all areas of Canada other than B.C. and Alberta, and on all occasions except when meeting competition from other converters who were not members of the Association or when the members competed secretly with each other.

254. The offices of the two successive association secretaries were used to administer the alleged price agreements, including the function of a clearing house for the discussion and dissemination of information about prices quoted or charged by the members, and for investigating and reporting upon complaints of price-cutting contrary to the agreement. The members submitted to such supervision and made available pricing information requested by the secretaries.

255. The members of the Association supplied the bulk of all such products made and distributed in Canada."

Question was raised by counsel for some of the parties at the hearing before the Commission as to whether the allegations of the Director embraced transparent packaging materials other than cellophane and polyethylene, such as Saran, Cryovac, etc. It was stated on behalf of the Director that the allegations had reference to custom printed bags and that there was no evidence that Saran and some other packaging materials were used for this purpose. Custom printed bags would not embrace printed bags made for stock or plain bags.

It appears, therefore, that the allegations of the Director relate to custom printed bags, sheets and rolls made of cellophane and polyethylene and to custom printed Pliofilm combination bags.

The firms named in paragraph 256 of the Statement of Evidence quoted above may sometimes be referred to in this report by the following abbreviated names:

C. W. Younger & Company (later "Limited")	- Younger
James T. Punfield Limited	- Punfield
Bradshaw's Limited	- Bradshaw's
Campbell Containers Limited	- Campbell
Canada Foils, Limited	- Canada Foils
The Continental Paper Products, Limited	- Continental
John Dickinson & Co. (Canada) Limited	- Dickinson
Dominion Envelope Company Limited	- Dominion Envelope
E.S. & A. Robinson (Canada) Limited	- Robinson
Haugh-Gordon Limited	- Haugh-Gordon

Mastex Limited	- Mastex
Nor Baker Limited	- Nor Baker
National Carton Specialties Limited	- National Carton
Polycraft Company Limited	- Polycraft
Polyethelene Bag Mfg. Co. Ltd.	- Poly Bag
Transparent Paper Products Limited	- Transparent
Visipak Limited	- Visipak
Web Wrappings Limited	- Web Wrappings
Wedlock Paper Bag Company Limited	- Wedlock

Descriptions of these companies which appear in the Statement of Evidence will be found in the appendix to this report.

### 3. Conduct of the Inquiry

The Statement of Evidence makes the following reference to the origin of the inquiry:

"2. The Statement of Evidence deals with arrangements among a group of converters of cellophane, polyethylene and other transparent packaging products. The inquiry originally covered a wider field, described initially as an inquiry into 'The Manufacture, Distribution and Sale of Transparent, Translucent and Foil Flexible Packages, Containers, Packaging Materials and Related Products'. As the inquiry progressed it was divided into more than one branch. The first such branch was the subject of a Statement of Evidence in connection with foils, specialty bags and related products, dated February 10, 1959. This Statement is the second in the series and is the final one."

The first branch of the inquiry mentioned above was the subject of a report of the Restrictive Trade Practices Commission dated March 11, 1960 entitled "Report Concerning the Manufacture, Distribution and Sale of Specialty Bags and Related Products".

In the course of the inquiry conducted by the Director of Investigation and Research visits were made by representatives of the Director to the premises of a number of companies engaged in the bag industry and related industries and large numbers of documents were obtained. After the documents had been copied by the Director the originals were returned to the premises from which they had been taken. These documents were all marked with code letters in the upper right-hand corner to indicate the particular premises on which they were found, and each sheet of every document was marked with a separate serial number in the lower right-hand corner which enables it to be distinguished from all other documents. In this re-



port the serial number will be given in referring to a particular document.

The Director also asked for and obtained returns of information by way of answers to questionnaires which he sent to a number of companies under the authority of the Combines Investigation Act.

Hearings were also held at the request of the Director for the presentation of oral and documentary evidence. Such hearings were held before Mr. A. S. Whiteley, a member of the Restrictive Trade Practices Commission, at Montreal on June 7, 1956 and before Mr. C. Rhodes Smith, Chairman, at Toronto from October 7 to 31, 1957; at Montreal, from November 12 to 15, 1957 and at Winnipeg from January 6 to 9, 1958. Extracts from the transcript of evidence of the hearing on June 7, 1956, cited in this report will be designated: (Evidence A, p. . . .) and of the later hearings as (Evidence, p. . . .).

On receipt of the Statement of Evidence the Commission, in accordance with the provisions of Section 18 of the Act, by order dated February 10, 1960 fixed Monday, the 9th day of May, 1960 at 10 o'clock in the forenoon in a Court Room of the Exchequer Court of Canada, Supreme Court Building, Ottawa, Ontario, as the date, time and place at which argument in support of the Statement of Evidence might be submitted by or on behalf of the Director, and at which persons against whom an allegation had been made in the Statement of Evidence would be allowed full opportunity to be heard in person or by counsel.

In giving notice thereof, the Commission further informed the parties that at such hearing they would have the opportunity of further examining any witness who had been called to give evidence in the inquiry or of calling any additional witnesses or of submitting additional documentary evidence.

At the hearing, which was held on May 9 and 10, 1960, the following appearances were entered:

Mr. F. C. Gascoigne	-	For the Director of Investigation and Research
Mr. J. J. Quinlan		
Mr. A. C. Whealy		
Mr. A. J. MacIntosh	-	For John Dickinson & Co. (Canada) Limited, Transparent Paper Products Limited and Canada Foils, Limited.
Mr. Hazen Hansard, Q.C.	-	For The Continental Paper Products, Limited

Mr. A. J. MacIntosh Mr. J. A. Langford	-	For Dominion Envelope Com- pany Limited
Mr. I. Nitikman, Q.C.	-	For Kafax Industries Ltd. (formerly Mastex Limited)
Mr. R. F. Wilson, Q.C. Mr. E. L. Weldon	-	For Bradshaw's Limited
Mr. M. Gintera	-	For Polyethelene Bag Mfg. Co. Ltd.
Mr. J. D. Arnup, Q.C. Mr. W. S. Sewell, Q.C.	-	For E.S. & A. Robinson (Canada) Limited
Mr. P. H. Sims	-	For Campbell Containers Limited
Mr. M. Shacter	-	For National Carton Special- ties Limited
Mr. W. S. Gray, Q.C. Mr. D.A.L. Britnell	-	For Wedlock Paper Bag Company Limited
Mr. R. de Wolfe MacKay, Q.C. - Mr. W. E. Bronstetter	-	For Polycraft Company Limited

No witnesses were called at the hearing before the Commis-  
sion but exhibits numbered H-1 to H-4 were entered.

Globe Paper Box Company Limited, Visipak Limited and  
Nor Baker Limited were not represented at the hearing, nor were  
the defunct companies, C. W. Younger & Company Limited and Web  
Wrappings Limited.

James T. Punfield Limited was not represented by counsel,  
but Mr. James T. Punfield attended the hearing.

Extracts from the transcript of this hearing cited in this  
report are designated: (Hearing, p. . . .).

Counsel for Kafax Industries Ltd. announced at the hearing  
that the name of Mastex Limited had been changed to Kafax Industries  
Ltd. by supplementary letters patent (Hearing, p. 6).

4. Position Taken by the Respective Parties  
with Respect to the Allegations

In giving notice of the hearing the Commission, in accordance with its usual practice, had requested the parties to submit, in advance of the hearing if possible, a statement indicating the position taken with respect to the facts and conclusions set out in the Statement of Evidence. Briefs stating the positions of some parties were received by the Commission before the date of the hearing and the positions taken by other parties were stated at the opening or during the course of the hearing. As similar positions were taken on a number of matters these may be summarized as follows:

1. It was submitted that the evidence in the inquiry did not establish that there was any agreement among manufacturers who retained the services of Messrs. Younger and Punfield to use the costing formulas prepared by the latter as a method of establishing minimum prices or common prices. While some companies used the costing formula as their selling price, others used what was known as "average industry cost" as a selling price and still others prepared an individual estimate for each order before arriving at a selling price.
2. The costing formulas developed by Messrs. Younger and Punfield did not relate to polyethylene sheets and rolls and the evidence does not establish that there was any agreement with respect to these products.
3. The evidence in the inquiry does not disclose any agreement among the parties as to the recognition of agents and distributors or as to the establishment of standard terms and conditions of sale.
4. The examination of company records which was made by Mr. Younger was not a general arrangement but occurred in isolated instances and did not include a check of the prices of all the parties. The audit served the purpose of enabling the parties to protect themselves against misinformation being given by customers as to prices charged by competitors.
5. The costing formulas developed by Messrs. Younger and Punfield were intended to establish average industry costs and were not intended to include a mark-up. The cost surveys were useful to many in the industry who did not have costing departments of their own. Also many firms had recently entered the industry and lacked experience.
6. The manufacture of custom-printed bags, sheets and rolls does not constitute a separate trade or industry and printed products are in active competition with plain or unprinted cellophane as well



as many other products or combinations of materials. It was submitted that the entire packaging industry must be looked at as a whole in determining the degree of control exercised by the companies named in the Statement of Evidence.

7. The statistics as to market shares held by the named companies which are presented in the Statement of Evidence do not accurately indicate the extent of control held by the parties because of the competition of other products and that provided by imports and by firms not concerned in the arrangements with Messrs. Younger and Punfield.

8. The parties did not have power to carry on their activities substantially unaffected by competition, not only because of the competition of other firms and alternative products but because of the ease of entry to the industry and the possibility that some of the customers would install machinery and make the services of the converters unnecessary.

9. Whatever arrangements existed among the parties were short-lived, embracing a period of approximately 15 months. The first information was distributed by Mr. Younger in July, 1954. Mr. Younger died in October, 1955 and while Mr. Punfield carried on for a time it was submitted that the group for all intents and purposes ceased to exist after Mr. Younger's death.

In addition to the foregoing common points, submissions were made on behalf of several companies that their participation in the activities described in the Statement of Evidence was limited and that their production of the products in question was very small. On behalf of Continental Paper Products, Limited it was stated that the company's purchases of cellophane amounted to only 1.03 per cent of the total purchases of the group and that most of its purchases went into plain bags or for resale. Continental did not furnish any costing information to Mr. Younger and there is no evidence that it made use of the formulas which were developed.

It was submitted on behalf of Dominion Envelope that cellophane and polyethylene products were minor lines in the company's business and that it had a relatively insignificant role in the industry under inquiry.

Campbell Containers Limited was stated to have sold a substantial part of its output to its parent company, and this factor lessened its participation in the competitive market.

Polyethelene Bag Mfg. Co. Ltd. carried on business in Western Canada and it was submitted on behalf of the company that the evidence shows that active competition existed in this area.

It was submitted on behalf of Wedlock Paper Bag Company Limited that the company was a member of the group for only eight months and that the evidence does not disclose that the company had an active part in the arrangements.

## CHAPTER II

### THE INDUSTRY AND ITS PRODUCTS AND THE QUESTION OF MARKET CONTROL

#### I. The General Nature of the Industry

The following description of the industry to which the inquiry related is given in the Statement of Evidence:

"7. Transparent films are manufactured by chemical manufacturers who either produce the raw material themselves or purchase it from other chemical firms. The large-scale use of cellophane for packaging purposes may be said to have begun in 1927, when it was greatly improved by a process which rendered it both moisture-proof and heat-sealable. The availability of cellophane for pre-packaging goods in self-service stores supported the large-scale development of chain retailing.

8. Cellophane remains the most versatile film on the market and its production is being constantly expanded to meet increasing demand. It is made from regenerated cellulose and comes in a large variety of thicknesses and grades, all having specific properties. All the other transparent films are plastics. The most widely used of them is polyethylene, which comes in several thicknesses. It came into commercial use in volume after the end of the last war and has steadily grown, firmly holding second place to cellophane, with the remaining films far behind. These other films include rubber hydrochloride film, produced and sold under the name Pliofilm in the United States and Canada; cellulose acetate, which is not produced here; vinylidene chloride polymers, including Saran and Cryovac; and more recently a polyester film sold under the name Mylar. In addition there are combinations of films such as cellothene, which is a lamination of cellophane to polyethylene; and Protectocote, which is a cellophane treated with wax, and there are other specially coated or treated films. All these films have a variety of properties different from each other, which render them more or less suitable for specific uses. They are all more costly to produce than cellophane and polyethylene and hence do not replace these films except in uses for which the

two leaders are relatively unsuitable.

9. The industry with which this inquiry is concerned converts flexible transparent films, which it purchases in bulk, into plain and printed bags, sheet and rolls and to some extent into combination bags, made of a paper back and either a plioform or cellophane front. Conversion consists of manufacturing and printing the products on specialized machinery designed to do the work at the lowest possible cost over the value of the raw materials.

10. Flexible transparent packaging products are sold by individual converters to manufacturers of consumer products and others, chiefly through their own sales force but to some extent through wholesalers. About 80 per cent of the converters' sales of cellophane in 1954, as estimated by a leading chemical manufacturer, were being made for packaging a variety of food products, especially confectionery, meat, biscuits and baked goods including bread, the remaining 20 per cent going into textiles, tobacco and miscellaneous uses. Polyethylene, according to the same source, was heavily used in the marketing of fresh produce, to the extent of almost 50 per cent of all sales, with dairy and other food products taking another 20 per cent, textiles about 6 per cent and the remainder in miscellaneous uses (Serials 23355-6)."

Although the Statement of Evidence says that cellulose acetate is not produced in Canada, the evidence shows that cellulose acetate is converted in Canada (Evidence, pp. 2674-75).

## 2. Purchases of Cellophane and Polyethylene Film by Members of the Group

The relative importance of 15 of the converters of cellophane and polyethylene film who retained the services of Younger and later of Punfield is afforded by the following table from the Statement of Evidence which shows purchases of film by individual companies for 1955. It should be noted that no figures are included for Wedlock which withdrew from the group in March, 1955.



PURCHASES OF FILM, 1955

<u>Company</u>	<u>Cellophane</u>		<u>Polyethylene</u>	
	<u>lbs.</u>	<u>% of Total</u>	<u>lbs.</u>	<u>% of Total</u>
Transparent	822,800	17.07	290,212	11.03
Bradshaw's	909,375	18.87	181,278	6.89
Canada Foils	328,959	6.83	8,466	0.32
Dominion Envelope	152,590	3.17	16,067	0.61
Web Wrappings	128,908	2.67	138,157	5.25
National Carton	65,253	1.35	133,875	5.09
Visipak	151,768*	3.15	115,727*	4.40
Poly Bag	279,289	5.79	541,508	20.58
Robinson	858,489	17.81	35,597	1.35
Campbell	177,837	3.69	90,095	3.42
Polycraft	53,906	1.12	151,281	5.75
Nor Baker	473,743	9.83	87,670	3.33
Mastex	247,949	5.14	841,746	31.98
Continental	49,762	1.03	-	-
Dickinson	119,706	2.48	-	-
Total	<u>4,820,334</u>	<u>100.00</u>	<u>2,631,679</u>	<u>100.00</u>

\* Annual estimate based on actual 9 months.

(Serials 13897, 10601, 13896,  
10617, Evidence, pp. 544-53)

On the basis of volume of purchases of cellophane film Bradshaw's ranked first, Robinson second, and Transparent third, these three companies being very close to each other in scale of purchases and together accounting for 53.75 per cent of total purchases of film by the 15 companies. There was a substantial gap in volume of purchases of cellophane film between Transparent (the smallest of the first three) and Nor Baker, the company next in size. With respect to polyethylene film products, the largest firms within the group of 15 associates were Mastex, Poly Bag and Transparent, in that order. In this case, however, purchases of Mastex appear to have been 55 per cent larger than those of Poly Bag, and the latter in turn were almost twice as large as those of Transparent. There were greater differences in size between the three leading firms in this field than in the cellophane field. Again, there appears to have been a considerable gap in scale of purchases between the third and fourth companies but the difference was not as great as in the case of cellophane. In the case of polyethylene film, 63.59 per cent of the total purchases by the associated companies were made by the three largest.

If the combined purchases of cellophane and polyethylene films in 1955 are examined it appears that there were five leading firms, Transparent, Bradshaw's, Mastex, Robinson and Poly Bag. The quantities of film purchased by these five firms constituted 67.22 per cent of the total purchases for the 15 firms listed.

### 3. Other Firms in the Industry

Although, as shown by the foregoing statistics, the companies associated in the employment of Messrs. Younger and Punfield converted large quantities of transparent film, other companies were also engaged in varying degrees in the same general field. The Statement of Evidence lists the following companies who were mentioned in the course of the inquiry as being competitors of the associated companies:

B. B. Products Reg'd, Montreal.  
B. & C. Packagings Limited, Montreal.  
Thomas Bonar & Co. (Canada) Ltd., Montreal.  
Bonar & Bemis Ltd., Winnipeg.  
R. D. Cattermole Ltd., New Westminster.  
Dominion Envelope & Cartons (Western) Limited, Winnipeg.  
Modern Containers Limited, Toronto.  
Modern Packaging Company, Ltd., Calgary.  
Modern Wrappings Limited, Toronto.  
Montmorency Packaging Ltd., Toronto.  
Stovel-Advocate Press Limited, Winnipeg.  
Sylvia Paper Manufacturing Co. Ltd., Montreal.  
Salerno Transparent Paper Bag Ltd., Montreal.  
Scott Bathgate Ltd., Winnipeg.  
Transparent Bag Specialties, Toronto.  
"Vizo-Bag", Toronto.  
Winnipeg Bag Company, Winnipeg.  
Bartram Industries Limited, Vancouver.  
Barber-Ellis of Canada, Limited, Toronto.  
Quality Paper Bags, Limited, Toronto.

Returns of information were requested by the Director from these companies from which it would appear that some of them were not engaged in the manufacture of transparent packagings in the period December, 1953 to the end of May, 1956. Such companies are: B.B. Products Reg'd, Modern Containers Limited and Stovel-Advocate Press Limited. As no return of information is at hand for Sylvia Paper Manufacturing Co. Ltd., its status as a producer is in doubt. Hence it may be taken that 16 of the 20 companies listed above were active in the production of transparent packaging for the relevant period.

4. Statistical Measurement of Control of Canadian  
Production by Associated Companies

As the allegations in this inquiry are confined to custom printed bags, sheets and rolls made of cellophane and polyethylene and other transparent film, considerable argument was presented to the Commission as to what proportion of the total production of the associated firms consisted of custom printed bags, sheets and rolls of cellophane and polyethylene and combination bags incorporating Pliofilm, and secondly as to what extent these products were produced by non-associated companies, or were imported into the country. The following paragraph from the Statement of Evidence contains figures of the value of printed and other products made by the associated companies in 1955:

"13. The combined sales of converted cellophane and polyethylene by all these companies, as reported to YOUNGER, appear in the following table:

BREAKDOWN OF DOLLAR SALES OF PARTICIPATING COMPANIES  
1955

	Cellophane		Polyethylene	
	<u>Dollars</u>	<u>%</u>	<u>Dollars</u>	<u>%</u>
Specialty Printed Bags	1,589,500	29.95	1,733,000	53.13
Printed Sheets	1,349,800	25.43	-	-
Printed Rolls	1,314,800	24.77	-	-
Stock Printed Bags	-	-	413,600	12.68
Plain Bags	<u>1,053,800</u>	<u>19.85</u>	<u>1,115,200</u>	<u>34.19</u>
Total	<u>5,307,900</u>	<u>100.00</u>	<u>3,261,800</u>	<u>100.00</u>

From these figures it is seen that the division between printed and plain cellophane and polyethylene was as follows:

	<u>Dollars</u>	<u>%</u>
Plain	2,169,000	25.3
Printed	<u>6,400,700</u>	<u>74.7</u>
Total	<u>8,569,700</u>	<u>100.0</u>

The above figures were computed from the Monthly Dollar Sales Comparison reports issued in January 1956 by PUNFIELD (Serials 13930, 14887). They correspond very closely to the detailed monthly compilations, made by YOUNGER, of sales figures reported to that company by the converters throughout 1955 (Serials 11484-6, 11471-2).

The returns of information made by the converters to the Director of Investigation and Research also contain sales statistics of nearly all the companies for the year 1955. These agree closely with the Association figures, the figures reported to the Director being a little higher on balance than those reported to the Association."

An objection that the above figures somewhat overstated the section of the market held by the associated companies was raised by counsel for the parties on the ground that Visipak, Transparent and Dickinson were not associated with the other companies in the employment of Younger and Punfield during the whole of 1955. As is explained further on in this chapter, the Commission finds that so far as the period of membership is concerned the evidence supports the submission of counsel in the case of the first two of these three companies but not with respect to Dickinson. The sales comparison figures which the Director used include figures for Visipak for only 9 months in 1955 and, consequently, the over-all total for 1955 properly reflects the period of this company's participation in the group. In the case of Transparent, sales figures were apparently reported until the end of 1955 and if participation of this company is taken as ending in October, 1955 it would appear that the total value of sales of participating companies should be reduced by \$152,335. The total value of sales of all cellophane and polyethylene products by the associated companies for 1955 should, therefore, be \$8,417,365.

Information as to total sales of the associated companies for all transparent packaging products was also secured by the Director. The information is summarized in the following paragraph of the Statement of Evidence:

"14. The 1955 sales figures of these companies for all transparent packaging products in total, and for converted pliofilm, cellothene and combination bags separately, were also requested by return of information. Many of the companies did not convert one or more of these subsidiary products. Their total sales of all transparent packaging products aggregated about \$10,148,000, being approximately \$1.5 million more than the Association figures for cellophane and polyethylene alone. The individual reporting of sales of converted Pliofilm, cellothene and combination bags was very incomplete, but purchases of these films as raw material was more extensively reported. By relating the raw material purchases of the firms not reporting sales to the return per pound of raw material received by a company reporting both raw material purchases and sales, it is possible to estimate sales of Pliofilm and cellothene. Sales of converted Pliofilm, estimated on this basis, were about \$316,000, sales of converted cellothene were less than \$60,000, and in



addition two patented products sold by two separate firms and not strictly transparent packages aggregated less than \$500,000. Sales of combination bags and any other miscellaneous transparent packaging products made up the rest of the \$1.5 million."

A reduction of the figures obtained by the Director to allow for Transparent's period of non-membership should be made in respect of sales of Pliofilm amounting to \$13,921. With this correction the sales of the associated companies in 1955 may be stated approximately as follows:

<u>Product</u>	<u>\$</u>
Cellophane and Polethylene, printed and plain	8,417,365
Plioilm	302,079
Cellothene	60,000
Patented Products	500,000
Combination Bags and Miscellaneous	<u>702,300</u>
Total, All Transparent Packaging Products	<u>9,981,744</u>

With regard to the non-associated companies, the following information as to volume of sales is given in the Statement of Evidence:

"16. Statistics were requested from all these non-associated competitors showing their sales. These figures provide a basis for estimating the volume of business done in 1955 by companies other than the associated converters. One of these firms replied that it was not engaged in the business at all and two others that they had commenced in 1956 and 1958 respectively. The others provided their sales statistics in one form or another, but not in a manner suitable for exact tabulation. In some instances the companies' financial year ended on June 30. It was noted that in each such instance the 1955 figures was less than that for 1956. In order not to minimize the significance of outside competition, an estimate for the full year 1955 in these instances was made on the basis of the sum of one-half of each year. One company engaged in the manufacture of transparent packaging products, as well as other things, was unable to segregate

its transparent packaging sales, but stated that in 1958 its total sales of all items were at the rate of \$400-500,000. The latter figure was adopted for the following estimate. Four other companies were unable to break down their sales into categories of film, but supplied total combined sales of all transparent packaging products. Although these figures may include some products other than cellophane and polyethylene, and in one case some doublecounting, they were nevertheless incorporated in the following estimate. The total sales of the non-participating companies, estimated on this basis, has been compared with actual sales of printed and plain polyethylene and cellophane products by the companies participating in the exchange of statistics through the agency of YOUNGER. This comparison provides an index of the maximum possible share of total Canadian domestic sales of converted polyethylene and cellophane products obtained in 1955 by non-participating companies. The figures are as follows:

	<u>Dollar Sales</u>	<u>%</u>
Associated Companies	8,600,000	75
Other Companies	2,800,000	25 "

The foregoing figures for associated and non-associated companies would be subject to the revision already indicated with respect to the period in 1955 when Transparent was not a member of the group.

A further minor revision in the statistics as to relative shares of the market should be made to take account of the sales of certain other companies, some of whose products might be considered as falling in the class of those in the inquiry.

During the hearing it was pointed out by counsel that the Restrictive Trade Practices Commission's "Report Concerning the Manufacture, Distribution and Sale of Specialty Bags and Related Products" dated March 11, 1960, contained in its Appendix (Sections A and B) descriptions of four companies, namely, Associated Paper Mills Ltd., Allied Paper Products Ltd., The Kennedy Car Liner & Bag Company, Limited, and Molson Bag & Paper Limited, which indicated that these companies were engaged in the manufacture of cellophane or polyethylene bags or both. It was stated on behalf of the Director that the companies had been overlooked because they had not been referred to as competitors in the inquiry.

The Commission has made an examination of the returns of information of these four companies to see what information is contained in them on sales of relevant products. It should be noted,

however, that the Director's definition of "specialty bag" which was used in connection with these returns of information was such that the companies were not obliged to include any information specifically related to bags or other products made from or incorporating cellophane or polyethylene. Consequently it is not surprising that the returns of information for these companies do not provide full particulars with respect to products involved in the present inquiry. In the case of one company there is reference to polyethylene as one of the materials used, but cellophane is not mentioned, and no dollar or other figure for sales of polyethylene products is included. In the case of a second company cellophane bags are mentioned as being among the products manufactured, but again no figure is given for sales of cellophane products. In the case of a third company a figure is given for the dollar sales of all products and a figure for the dollar sales of those specialty bags falling within the definition used by the Director. The difference between these two figures is, presumably, the dollar value of cellophane bags. In the case of the fourth company, it was stated that among the products manufactured or converted were flat and square cellophane and polyethylene bags and figures for total sales of these in Canada were given.

If the relevant, but admittedly incomplete, figures obtained from the returns of information of these four companies are added to the revised total previously given, the non-associated companies' total sales of converted cellophane and polyethylene products in 1955 become \$3,061,350 as compared with \$8,417,365 for the associated companies.

As previously indicated, the restrictive arrangements were alleged by the Director to relate only to custom printed products and an endeavour was made to determine the extent of the market for such products. The method used is described in the Statement of Evidence as follows:

"17. As the restrictive arrangements alleged herein were applicable only to printed products, it is also necessary to estimate the degree to which non-participating companies shared in the market for printed products. The evidence of witnesses indicated that competition which they met from many of the non-participating companies was in plain, not printed, products (e.g. Mr. Porter of MASTEX, pp. 1014-6; Mr. Hasler, pp. 1967-9; Mr. J. Lieberman, p. 2680; Mr. H. Wasylyk, pp. 2923-4). Since many of the non-participating companies were unable to break down their sales into categories of plain and printed products, accurate statistics are not available. Again, however, the maximum possible share which might have been attained by the non-participating companies can be determined by making the assumption that all their sales not definitely reported as plain products

were in fact printed, even though their returns make clear that part of them were plain. The figures for 1955 on this basis were as follows:

	<u>Dollar Sales</u>	<u>%</u>
Associated Companies (printed only)	6,400,000	74
Other Companies (All sales except those designated as plain)	2,250,000	26 "

Some account must be taken of the sales of the four companies which were mentioned in the report on Specialty Bags as having produced cellophane and polyethylene bags and which had been overlooked by the Director. These may be included on the assumption that their production was all printed bags, in order to determine the maximum possible extent to which they were a factor in the printed products field. Furthermore, account must be taken of the period of non-membership of Transparent in the group of associated companies. If these adjustments are made, it appears that the maximum possible share which the non-associated companies could have attained of the market for printed cellophane and polyethylene bags was as indicated below:

Associated Companies	\$ 6,293,780
Other Companies	2,465,235

Thus, of estimated total sales of \$8,759,015 of custom printed and stock printed cellophane and polyethylene bags, sheets and rolls, 71.85 per cent were manufactured by the associated companies and 28.15 per cent by the non-associated companies, including in the latter group both those which are mentioned by the Director in the Statement of Evidence and those with respect to which the relevant material has been extracted from returns of information made in connection with the inquiry in the specialty bag industry, and after adjustment for Transparent's period of non-membership.

The foregoing estimates may be summarized as follows:



Product	Associated Companies'	Per Cent of	Other Companies'	Per Cent of	Total
	Sales	Total	Sales	Total	Sales
	\$		\$		\$
1. All transparent packaging material	9,981,744	76.45	3,075,271	23.55	13,057,015
2. Cellophane and polyethylene bags, sheets and rolls	8,417,365	73.33	3,061,350	26.67	11,478,715
3. Printed bags, sheets and rolls of cellophane and polyethylene	6,293,780	71.85	2,465,235	28.15	8,759,015

The following additional comments are given in the Statement of Evidence as to the position held by the associated companies with respect to territorial markets and subsidiary products:

"18. The returns of information by the associated companies show that many of them made no sales in the Province of British Columbia and that none of them were B.C. companies. A substantial part of the estimated total sales of the non-associated companies were made by two British Columbia companies. Accordingly, the combined share of the associated companies in the market outside B.C. and Alberta must have been greater than the estimates given above for Canada as a whole.

19. As to the subsidiary products, most of the non-associated companies reported that they did not make Pliofilm or cellothene or combination bags in 1955. Four reported the purchases of negligible quantities of Pliofilm. One company, whose total sales of all transparent packaging were small, reported that it made combination bags and converted Pliofilm but did not keep separate sales statistics. Only two other companies reported sales of combination bags for 1955, one selling \$3,000 worth and the other reporting they were 'virtually none'. Accordingly, the evidence is clear that the associated companies were responsible in 1955 for almost all the small business done in the conversion of films other than cellophane or polyethylene."

5. Consideration of Objections to the Foregoing  
Statistical Comparisons

As already mentioned certain objections were raised by counsel in regard to the inclusion of sales figures for the entire year 1955 in the case of Transparent, Visipak and Dickinson. Account has been taken of Transparent's withdrawal from the group in the revisions in the total sales figures and in the case of Visipak it was found that no revision was necessary. It was suggested by counsel that Dickinson was a member of the group from May, 1955 to May, 1956. This period was given in the oral evidence but other periods are mentioned as well and it would appear from the evidence as a whole that Dickinson was a member of this group throughout 1955.

The fact that Visipak and Transparent were not members of the group of associated companies for the entire year 1955 does not, however, invalidate the use of the statistics of film purchases as indicators of the relative importance of the fifteen companies at any time during the seven months during which they were all actively associated. It is true that the importance of the group of associated companies in relation to all producers of transparent packaging products would be less during the first three months of 1955 before Visipak became associated and during the last two months of 1955 when Transparent withdrew. However, the percentages derived from including all companies might more accurately represent the position during the period of their membership than the revised figures. This is even more clearly the case with respect to the use of statistics of film purchased by each of the associated companies in order to demonstrate in some rough fashion the relative importance of each of those companies within the group. The essential purpose of the figures is to give an indication of the relative market position of each firm in relation to the group as a whole. Fundamentally what is attempted here is to give a picture of the situation at a moment in time by measuring a flow through time. The question is what period of time is appropriate for measuring this flow? The capacity of the individual firm at a moment in time will not be affected directly by whether or not that firm was in or out of the group of associated companies during part of the year. On the other hand, if there were monthly variations in production, there might well be monthly variations in the purchase of film; in this case the use of figures of film purchased for a portion of a year to represent the relative position would be likely to be more misleading than figures for an entire twelve-month period. Business is forward looking, and a given firm's power to influence the market in the future because of its existing large manufacturing potential, i.e., its capacity, may be more important in the eyes of its competitors than its actual production at the moment.

It must be admitted, however, that capacity is a very difficult thing to determine. The capacity of a given plant is dependent upon a number of factors, in addition to the size and efficiency of the machinery installed. In addition, the scale of raw material input will be influenced by the general level of demand which will reflect the state of business. Purchases of raw material can, at the very best, be only a very rough and ready indicator of the productive strength of a firm or of the relative productive strengths of the various firms. Nevertheless, there is no evidence to suggest that the raw material input figures grossly distort the order of magnitude of the firms in the present case; in other words, there is no reasonable ground for doubting that Mastex, Poly Bag, Robinson, Bradshaw's and Transparent were major firms within the group of associated companies.

## 6. Imports as a Factor of Supply

Another factor which should be considered in reviewing the position of the associated companies is imports. The tariff situation with respect to imported bags is described as follows in the Statement of Evidence:

"20. There are no import statistics segregating cellophane or polyethylene bags, sheets and rolls, these being buried in an omnibus item. These products are subject to the following items of the Customs Tariff:

	<u>British Prefer- ential</u>	<u>Most Favoured Nation</u>	<u>General</u>
908. Manufactures of synthetic resins . . . n.o.p. (Polyethylene bags, etc.)	15%	20%	30%
918(c) Manufactures of regenerated cellulose, n.o.p. (Cellophane bags, etc.)	15%	20%	30% "

The oral evidence suggests that the competition of cellophane and polyethylene bags, sheets and rolls imported into Canada for use in the packaging of other products in Canada, while it certainly did exist, was not a matter of major concern to Canadian converters. The most significant competition came from the import of merchandise, notably fresh fruits and vegetables, already packed in transparent bags, particularly in polyethylene. The cost of importing fresh produce already packaged was stated to be less than the cost of importing produce in bulk and packaging it in Canada. It was suggest-

ed that this was due to certain characteristics of the Canadian Customs tariff, and not to Canadian bag prices having been higher than those of imported bags. This is shown in the following extracts from evidence:

Mr. H. Wasylyk of Poly Bag:

"Q. Have you encountered competition from imported polyethylene bags or sheets or rolls?

A. Oh yes.

Q. Is there a substantial amount imported do you know?

A. Yes. As a matter of fact we prepared a brief to the Tariff Commission recently.

Q. Was that on bags themselves?

A. Yes, on bags and on packaged products.

Q. That is products coming in packaged in polyethylene?

A. That is right.

Q. Over what period have you encountered competition from polyethylene bags, bags that have nothing packaged in them?

A. Practically from the day that polyethylene was recognized as a packaging film. The American production grew so rapid that they started invading the Canadian markets.

Q. You mean from 1951 on or even before that time?

A. Before that I couldn't answer because, as I say, I was not interested in selling converted products.

Q. In what areas did you encounter competition?

A. Right across Canada.

Q. Do you know what companies sell in Canada?

A. At that time during the last four or five years, the most active Company was Champion Bag from Chicago. Other American converters, through agents in Canada - you can't accuse them as having invaded our market



because it was agents in Canada purchasing products in the United States and bringing it into Canada so then you can only accuse the Canadian agent of buying the product. Although we know that such as Mill Print, and many others, Continental Can, who operated under a different name, were invading the Canadian markets. But it was mostly agents who were bringing the product in, but not the actual converter, because the converter did not come in here.

Q. Do you know who the agents for Mill Print are in Canada?

A. I don't know.

Q. Do you know who were the agents for Continental Can?

A. No, I don't know who the agents are because we were never interested to the extent that we should investigate, we were too busy trying to develop a market rather than worry about it.

Q. The important factor as to whether you could develop a market would be the competition you had, and I would think over a period of time you would find out the name of the people who were competing with you, whether Canadian or American?

A. Well, we never were concerned to a great extent because the field was so young. The potential market in Canada is so great that if you would see some of my sales letters that I wrote to our salesmen across Canada, constantly telling them to develop uses rather than worry about competitors, and ninety per cent of our time was devoted in that direction rather than worrying about competitors.

Q. By developing the market you would find new uses for polyethylene.

A. Yes.

Q. Speaking of the packaging of fruit and vegetables do you encounter competition from imports for that market?

A. Yes, within the last two years, that is when it became very active and harmful to the industry, not as bags coming in, but the packaged product. Prior to two years ago, there are certain seasons that the Canadian vegetables are used up, and it is necessary to import

American products, and the American vegetables would be imported into Canada in bulk, and the packaging companies in Canada would package them in Canadian film, but because of lack of protection in the last two years more and more gradually it got to the extent that the Canadian packagers were forced to close down during the season that they were most needed to be in operation because that is when our labour situation is bad, starting say about the end of January and the Canadian product is just about used up towards the end of January.

. . .

- Q. What about the bags alone with nothing packaged in them, do you encounter competition from the import of these alone?
- A. Not to the extent that the packaged products come in because there is a duty on bags as bags, I believe it is  $22\frac{1}{2}\%$  [sic] duty. But if the product is packaged there is no duty. It is another way of bringing bags in, bags without duty."

(Evidence, pp. 2897-2900)

Mr. J. F. Kay of Mastex:

- "A. Polyethylene bags bore a rate of duty of 20%, and produce packaged in bags came in duty free at certain times of the year. It was felt by some - I should explain, in the initial stages of the swing to the pre-packaging of produce, produce at certain times of the year was imported in bulk from the United States, and Canadian converters produced bags properly labelled and designated 'Canada No. 1 imported.' As the spread of pre-packaging developed both in the United States and Canada the importers found it was cheaper for them to import the produce already pre-packaged rather than import them in bulk and package them in Canada. It was felt by some there should be a rate of duty assessed on the bag part of the pre-packaged item, that that would encourage the placing of the bag business in Canada.
- Q. I suppose that would be a rather difficult thing to do, put a duty on a bag in which the product was already packaged?

A. I would think it would be. I am not familiar with customs tariff and laws. In a sense if it hurt the industry in Canada some consideration should be given to it, but in the over-all picture I don't think it is something the Government can deal with.

Q. Were there some people who felt more strongly about the importation of polyethylene bags than others?

A. Well, we all felt strongly about it. I would say there were those that felt it was a major item that could help the Canadian converting industry. I believe Mr. Wasylyk brought that issue up rather strongly on several occasions, that is of the Polyethylene Bag Company.

Q. Was that subject discussed at some length at the meetings?

A. Yes.

Q. Have you encountered competition from cellophane or polyethylene bags in which nothing has been packaged, just the bags themselves, from any place outside of Canada?

A. No sir. From time to time but it has not been a factor at all. Our prices have been so depressed very often they are cheaper than the American prices.

Q. The American prices plus duty?

A. Not necessarily, sometimes cheaper than American base prices.

BY THE CHAIRMAN:

Q. What is the position usually with regard to your prices in Canada in comparison with American bags imported?

A. We are cheaper definitely. The only time when we might not be cheaper is an extremely large volume case. For example, 500,000 bags is a big run with us. In the States 5,000,000 bags in the packing area is not an unreasonable run. You can imagine what a difference there would be on an order like that on a solid run."

These extracts from the evidence do not suggest that bags, sheets and rolls imported as such, without any products contained in them, were regarded as important competitive factors. The import of goods already packaged cannot be said to have affected the relative position of the associated companies in the Canadian market for bags. Such imports may have reduced the total market in Canada for bags, whether imported or domestically produced, below what the market would otherwise have been, although such imports may also have had the effect of stimulating the demand for such bags and thus expanding the market more rapidly than might otherwise have occurred, as suggested in the evidence of Mr. Wasylyk quoted above. There is, therefore, no reason to revise the figures given earlier as to the market shares of associated and non-associated companies even if import statistics were available.

In a broader sense, however, such imports of packages are relevant and do have a bearing on the question of market control. Reduction of the total market for Canadian-made bags because of imports of pre-packaged merchandise is simply one example of the existence of alternatives to the use of Canadian-made transparent packaging materials. In such cases the alternative is available only with respect to imported goods and the Canadian converter may have no opportunity to go after the business.

#### 7. Competition of Custom Printed Packagings with Other Packagings

A considerable part of the evidence in the inquiry related to the competition between custom printed transparent packagings and other forms of packaging. There was extensive argument before the Commission on the same subject and the related question of what constitutes the market for custom printed transparent packaging. The evidence does not permit definite conclusions to be drawn as to the exact field of trade which custom printed transparent packagings occupy or as to the complete nature of the competition which may exist between such packagings and other types of wrappings or containers. It is evident that in modern merchandising of agricultural or industrial products the wrapping or container for the product may be selected by the vendor for a variety of reasons and the element of cost may not be the determining one in the choice, although it may play an important part in the selection of one of two close alternatives. Some of the factors which play a part in the choice of wrappings or containers are illustrated in the following review of the evidence on the question of the competition of various materials:



(a) Competition of Custom Printed and Stock Printed Bags

Reference may first be made to the difference between stock printed and custom printed bags. The following extract from the evidence of Mr. I. S. Waldie of Web Wrappings is relevant:

"Q. What is a stock printed polybag, Mr. Waldie?

A. That is an item that -- supposing a smaller concern wanted to bag their own apples but didn't want to afford to buy a special run for themselves, to buy plates and have a tailormade item. This was offered as something that I could run perhaps when I was slack and it would be a bag which had 'Apples' on it but no name and could be used for that purpose.

Q. It would be the sort of bag that might be sold to several different accounts?

A. Exactly. One would try not to sell them in the same area. We had a stock orange bag and an apple bag. I think that is all. They would be sold, in other words, in small lots, usually perhaps only 500 or 1,000 at a time.

Q. There would [be] a saving in cost because plates would not have to be made up?

A. That is right and you could run them when you pleased."

(Evidence, p. 81)

The fact that stock printed bags would normally be sold at a lower price than custom printed bags is referred to in a memorandum written by Mr. C. W. Porter of Mastex to Mr. J. F. Kay dated December 14, 1954:

" . . .

. . . We do know, though, that our competitor, Poly Bag Co. has taken considerable apple bag business with their stock printed bag in view of the low prices they have been quoting on this design and we certainly trust that this situation will be stamped out and buyers will go back to using their own design. It is too bad when special designs have been created and the price is so high on these designs that they revert to a stock printed bag while they

are being sold at cheaper prices.

. . ."

(Serials 22956-57, at p. 1)

The possibility that a reduction in the price of stock printed bags might affect the price of custom printed bags is shown in the following extract from a memorandum from Mr. H. A. Smith to Mr. H. Wasylyk of Poly Bag:

" . . . Mr. Younger had Clarence Porter admit they chiseled [sic] the price the way I told you at Mac fruit. We have to settle this price slash in stock printed bags as it will spill over to our Custom print work. . . ."

(Serial 23049)

Mr. H. A. Smith, Sales Manager for the Ontario branch of Poly Bag gave the following evidence:

"BY MR. THURM:

. . .

Q. This is a copy of the letter that you sent to Mr. Wasylyk?

A. Right.

Q. In the first sentence there is a reference to carrot and parsnip bags. Could you tell me what kind of bags they were? Were they poly bags?

A. They would be poly bags.

Q. Were they stock printed bags, do you know?

A. One of them here, one of them, Johnny's Fruit, would be a printed bag. In fact, maybe the both of them would be printed poly bags.

THE CHAIRMAN:

Speak up, Mr. Smith.

THE WITNESS:

I think both of them in this instance here are printed bags.

BY THE CHAIRMAN:

Q. Stock printed?

A. Whether they are stock I wouldn't be sure because today they have their own custom printed bags. Now, at that time maybe it was stock or custom. I wouldn't be able to tell you that because today they have their own custom printed ones.

BY MR. THURM:

Q. Do you know when they first started ordering their own custom printed bags?

A. I would say in this instance of Johnny's Fruit he had one custom bag and he was using stocks to fill with various different fruits and vegetables whereas today pretty near all his bags are custom printed."

(Evidence, pp. 171-72)

(b) Competition of Custom Printed Cellophane with Plain Cellophane and Waxed Paper

The competition of various kinds of packaging materials with printed cellophane or polyethylene bags is shown in the case of the baking industry. The following excerpts show that plain cellophane (bought directly from the film manufacturer) and waxed paper compete with each other and with custom printed cellophane bags and possibly with polyethylene bags:

Mr. V. D. Strickland of Robinson:

"BY MR. THURM:

. . .

Q. Actually, I meant to speak of polyethylene and cellophane for packaging purposes.

A. Well, one of the biggest uses for cellophane is wrapping bread.

Q. Yes.

A. And they certainly have had a tremendous increase in the use of cellophane for wrapping a loaf of bread. Now,

that doesn't help the converters at all. It is plain cellophane. That is a direct deal between the manufacturers of cellophane and the baker.

Q. I see. Well, who cuts the cellophane film, in that case, sold by Dupont or whoever it is?

A. They do.

Q. As a sheet?

A. No; they use rolls. They supply them in the roll which is necessary to wrap a loaf of bread or box of buns, whatever it may be. That has a curious effect on another industry which we are in.

Q. Will you explain that?

A. Well, not very many years ago, I would say 95 per cent of the bread you bought was wrapped in wax paper. Today, a big percentage of that bread which might be in wax paper is in plain cellophane, so that wax paper business has gone over in favour of plain cellophane, neither of which help a converter like ourselves.

BY THE CHAIRMAN:

Q. You don't use printed cellophane much for bread?

A. No, just on some very specialized loaves. The cost, of course, goes up considerably if they are printed; about double the cost.

BY MR. THURM:

Q. Any printed cellophane used in bread wrapping was produced by the converters?

A. That is right. "

(Evidence, pp. 1900-01)

Mr. I. S. Waldie of Web Wrappings:

"Q. In the first sentence you refer to the Hollywood business. Can you tell us what you meant by that?

A. That is a trademarked name for a bread that is wrapped



in cellophane, the Hollywood loaf.

Q. Is it one particular company that has the trademark?

A. No. One whole chain has it. I am not sure who it is now, which chain it is. The trademark is owned in Chicago and you pay a royalty to them if you run this order.

Q. Is that a brand of bread?

A. Yes, a brand of bread.

Q. Is bread normally packaged in cellophane?

A. No, only specialty loaves, sir, higher-priced loaves.

Q. How would the cost of a cellophane wrapper for bread compare with the cost of a waxed paper wrapper? Have you any idea?

A. It is higher, Mr. Thurm.

Q. Cellophane is higher?

A. Is higher, not as much higher as it looks because you get so much more cellophane per pound, but still higher. How much I don't know any more."

(Evidence, p. 75)

This and other evidence was relied on by counsel for Bradshaw's in presenting the following argument to the Commission:

"The buyer of printed cellophane has many alternatives to select from. He may choose plain cellophane and the use of plain cellophane far exceeds that of printed film. A constant competitive situation exists between the use of unprinted cellophane, on the one hand, used together with printed labels and wrappers, and the use of printed cellophane. To illustrate my point I should like to make reference to the use in the following industries and trade.

One, the baking industry, which is possibly the largest user of cellophane, is a typical example where over the years printed cellophane has had a variable share of the market. At one time this industry purchased large quantities of printed cellophane, but because of the cost the use of printed

cellophane is now on a limited scale and has been replaced by unprinted cellophane used together with printed wax paper bands or end labels for the wrapping of bread, cakes and so-called sweet dough products. They can use unprinted cellophane with printed labels or printed open-faced boxes or trays over-wrapped with plain film. Such products have taken over 80 per cent of the market.

Next, in the confectionery trade many of the customers of converters are now making their own plain cellophane bags. We have heard reference to the fact that people can go out and purchase a machine, and that is quite true. This Commission on its own investigation can find that that is a fact. By using their own machines they can make these plain cellophane bags and then attach printed labels at the time of wrapping.

In the meat-packing field we find that at one time they used printed cellophane exclusively for the packaging of bacon, but they now have a variety of packages on the market for their products. A large portion of this market has found it economical to use printed open-face cartons over-wrapped with some plain material."

(Hearing, pp. 166-67)

(c) Competition of Cellophane with Cardboard Boxes and Specialty Bags

Another instance in which cellophane packagings are in competition with other material is the potato chip industry. The alternatives in this field were suggested by counsel for Bradshaw's as follows:

"As a final illustration I would refer to the potato chip industry which is a large potential for any converter. That industry has at least three materials that the buyer can choose from in addition to printed cellophane, all of which are used to some extent, namely, foil, transparent, glassine and printed cartons."

(Hearing, p. 167)

Factors which might influence the choice of packaging for potato chips are described in the following extract from the evidence of Mr. I. S. Waldie of Web Wrappings:

- "Q. What type of package are potato chips normally packaged in? Is there any one type?
- A. No, there isn't. They are in most everything. I would say that the majority of them are in foil.
- Q. Is there any reason for that that you know of?
- A. Foil, while looking more expensive, actually isn't. They use such a very thin layer of foil -- it is always laminated to paper -- that its cost gets down below cellophane or polyethylene. That is the reason. It is also a pretty good looking product. Protection-wise the foil people say it is the thing. Actually I don't think it affords any better protection than any of the others.
- Q. What are the points you would consider in packaging potato chips?
- A. Well, light is one thing. Light is very damaging to potato chips. Moisture of course destroys them or makes them unpalatable, so that there is an exclusion of light necessary and also the best material that you can get as far as moisture is concerned, but of course the difficulty in potato chips is that the package always costs much more than the potato chips cost and it is a very difficult item to sell in a package at all so that cost is the primary, the first thing.
- Q. Can you package potato chips in cellophane?
- A. Yes.
- Q. I understand --
- A. I have done a lot of it.
- Q. It is normally transparent, isn't it?
- A. Yes, it is, but you can put on a lot of ink or you can use a coloured cellophane which excludes light. They call it tango.
- Q. Would the cost be prohibitive?
- A. The cost [is] prohibitive to some people, not to others. It just depends. Some people like cellophane. They find their potato chips move better in cellophane

than they do in foil. As a matter of fact, I think districts have something to do with it too.

Q. Do you know of any companies that package their potato chips only in foil?

A. Yes, I think that there is two fellows around Hamilton-London way. Snyder is one and there is another one. Lever Brothers, I think, only use foil, but we were trying here and had been for years to get Snyder to change. We never did.

Q. Because you did not make foil and wanted to sell them a product you could make. Is that right?

A. Yes.

Q. I take it you were not successful?

A. No."

(Evidence, pp. 69-71)

Other instances in which transparent packaging competes with other materials are indicated in the following portion of the evidence of Mr. J. F. Kay of Mastex. The illustrations given include some uses of polyethylene which are not germane to this inquiry, for example, shipping containers and the use of polyethylene in home construction and road building. The relevant parts of this extract suggest that packaging as an adjunct of salesmanship may be the most important factor in the selection of material for wrapping a product:

"BY MR. THURM:

. . .

Q. Were there any other markets?

A. Yes. Packaging of heavier items, bulky items, such as hardware, and the packaging of silverware. I can expand on that if you want it.

Q. Surely.

A. Actually we came into markets not nearly covered by cellophane, and new markets, but also markets covered by packaging material such as boxes and



paper, for example, the more recent development of dry cleaning packaging; a switch over in the packaging of gloves from boxes to a bag; the use of polyethylene as a vapor barrier in home construction; as a means of curing concrete in road building.

Q. What is the reason why customers will switch over from packaging gloves in a box say to gloves in polyethylene? Is it because of the qualities or the fact it is cheaper?

A. Price may be a consideration, but I think the greatest consideration is the fact that it fits neat for a transparent package. The dominance in the trend today is towards self service in super markets or department stores. In order to effectively sell on that basis it is merely a matter of counter display rather than sales help. Therefore it is necessary to package the product to its most advantageous nature, and also more advantage for the product to be seen. At the same time when people buy a product they want to see it is factory fresh and protected. Polyethylene, more than any of the other films, with the exception of new films coming out now, best suits that need.

BY THE CHAIRMAN:

Q. Would it be of some advantage also in matter of space?

A. Yes, there may be, although there is an objection in the terms of ease of storing. Boxes of regular type are stored quite easily; that might be a consideration in some cases. . . . "

(Evidence, pp. 3067-68)

(d) Competition of Polyethylene with Paper Bags

Packages made of polyethylene appear to be used extensively in the packaging of fresh produce and to have supplanted to a considerable extent the use of other materials for certain products. In the case of potatoes polyethylene competes with paper or reinforced paper. A reference to such competition is found in a memorandum dated October 24, 1955 from Mr. H. Wasylyk of Poly Bag to the company's Montreal and Toronto representatives:

"You will be attending the industry meeting on Friday the 26th at Montreal. Should the subject of another price re-

duction come up I would suggest that you seriously oppose that because recently checking up the price of paper bags they have gone up anywhere from 10% to 30%. Therefore, there is no reason for poly to come down any lower than it is now. As a matter of fact, 10-lb. potato bags, we saw an invoice today on a printed two color multi-wall bag 30 and 40 pound kraft on a run of 250M the price was \$35.60, which is almost equivalent to a poly bag price. Therefore, on those basis [sic] I would suggest that should there be anyone suggesting bringing down the price any further than it is that you fellows oppose it."

(Serial 8806)

Mr. V. D. Strickland of Robinson gave the following evidence concerning the packaging of produce, including potatoes:

"BY MR. THURM:

. . .

Q. Are there any things which are packaged exclusively in either cellophane or polyethylene?

A. I think I could say no.

Q. None?

A. As far as I can think of.

Q. Are there any which are packaged mostly in cellophane and polyethylene?

A. Fresh produce is packed largely in polyethylene, for one. That is probably the biggest single outlet for any food product which is pretty largely in a transparent container, and it is almost all polyethylene; I couldn't imagine any other food product, or any other product which could even be close to that.

BY THE CHAIRMAN:

Q. They still use paper bags for fresh produce, don't they?

A. Not very much. I mean, you get potatoes in a paper box, but it is moving towards polyethylene.

Q. In a smaller quantity, you mean?

A. Five pounds.

Q. But the larger bags are still made of heavy reinforced paper?

A. Well, we don't call them in the packaging business.

Q. Oh.

A. We call that a shipping container. . . ."

(Evidence, pp. 1901-02)

Some fresh produce is packaged in cellophane bags made by the big grocery chains for their own use, according to the evidence of Mr. H. A. Smith of Poly Bag:

"BY MR. THURM:

. . .

Q. Do you know of any products that are packaged only in polyethylene?

A. Only?

Q. Yes?

A. Let us take fruit and vegetables. There is some big chains will make their own cellophane bags.

Q. Their own cellophane bags?

A. Make their own cellophane bags.

Q. To package fruit and vegetables?

A. Right, but in the field in merchandising very little cellophane is used. It is all poly.

BY THE CHAIRMAN:

Q. That is fruit and vegetables you are speaking of?

A. Fruit and vegetables."

(Evidence, p. 200)

From the evidence quoted earlier in regard to custom printed and stock printed bags and from the foregoing extracts it would appear that produce may be packaged in plain, stock printed or custom printed bags.

(e) Competition of Specialty Bags

The fact that the field of packaging has been characterized in recent years by changes in the use of traditional materials and rapid developments in the use of newer materials was referred to in the Commission's report on Specialty Bags as follows:

"The fact that specialty bags are defined in the Statement of Evidence to exclude bags made from cellophane, polyethylene and pliofilm may be considered in relation to the further comment made by the Director that: 'Traditionally the raw materials of this phase of the specialty bag industry have been wood derivatives, such as kraft, sulphite, glassine and cellucine, but this appears to be giving way to foil, cellophane, polyethylene and other chemically derived materials'. This suggests that in the specialty bag field, as in other fields of packaging, newer types of materials are being developed which might compete with or replace traditional materials." \*

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\* Department of Justice, Report Concerning the Manufacture, Distribution and Sale of Specialty Bags and Related Products, Ottawa, 1960, p. 16.



## CHAPTER III

### ARRANGEMENTS RELATING TO CELLOPHANE AND POLYETHYLENE

The arrangements among the associated converting companies were developed in two aspects, one relating to cellophane products and the other to polyethylene products. Both aspects were carried on with the assistance of C. W. Younger & Company, which became a limited company before the death of Mr. C. W. Younger on October 15, 1955, and subsequently with that of James T. Punfield Limited. Mr. James T. Punfield, President of the latter company, had been an employee of C. W. Younger & Company since the beginning of 1955. The activities of the associated companies with respect to cellophane and polyethylene were of much the same character.

There is no indication in the evidence that the association of cellophane and polyethylene converters was ever organized in a formal way. As was pointed out by counsel in argument there is no document which sets out the objects of the association. Nor is there any record of the election of officers or the adoption of a constitution.

#### A. Cellophane Products

##### 1. Period of Association Activities

The organization of an association of cellophane converters apparently began in the closing weeks of 1953, the first meeting having been called for December 29, 1953 in Toronto, but there is no record of the meeting in evidence. A second meeting was called for March 5, 1954, and the third, fourth, fifth and sixth meetings for March 30, April 19, May 18 and May 28, 1954 (Serials 21475, 18039-40). As no regular record of meetings was kept, it is not possible to determine how frequently meetings were held subsequently but reference is made later in this chapter to the evidence on this point.

The exact date at which the association disbanded is difficult to determine. Mr. J. T. Punfield called a meeting of the polyethylene and cellophane converters for May 1, 1956 (Serial 10912) but whatever was done at that meeting did not result in the continuation of the association. On May 15, 1956, however, Mr. Porter of Mastex wrote Mr. Kay of Mastex as follows:

" . . .

However Clarke of Globe has advised Kennedy at Gamble-Robinson that there is no more association and Kennedy also advised Larry that Transparent (Web) are out with all kinds of prices but Kennedy is not at the present time ready to place any business. We intend to go after this and if possible regain the account. We also hope to gain more cello printed business but will not lower prices on Poly unless we are forced to, and as you say, meet each situation as it comes up and bide our time.

. . .

I have asked Punfield to return our lists today which he is doing so that any of our names will not be left around.

. . ."

(Serials 9266-67 at p. 1)

It appears from the foregoing document and other evidence that activities with respect to both cellophane and polyethylene products were discontinued by the association in May, 1956.

The persons who were most active in forming the association are not clearly shown by the evidence. A letter dated December 18, 1953 from Mr. Younger to L.M. Wedlock, then President of Wedlock, contains the following:

"It has been suggested that a meeting of the Cellophane Converting Industry should be called with a view of discussing the Industry's problems.

. . .

It has been suggested that one representative from each Company attend this meeting which is the reason this letter has been written to you personally.

There are apparently several problems which might well be discussed by the Industry at this meeting with benefit to all concerned."

(Serial 21475)

Mr. A. D. Bone, General Sales Manager of Canada Foils, wrote a memorandum dated June 17, 1954 to H.G. Cook, Assistant to the President. In the course of this memorandum, Mr. Bone said:

" . . .

During two private and confidential sessions with the original four in the group, it was inferred that the rest of the people in the group had not yet been hurt enough profit-wise to force them to really come together with a desire to do something to save themselves. It is felt that it might be necessary to indulge in some definite planned price cutting in order to accelerate the condition. In the meantime Bradshaw's have, through Mr. Hassler, [sic] stated that their policy is that they will not be under-cut or under-sold by anyone in the business who approaches what they describe as their regular accounts.

. . . "

(Serials 17888-92, at p. 4)

While the "original four" are not identified in this memorandum, Mr. Bone referred to a committee consisting of representatives of Robinson, Bradshaw's and Canada Foils and to a meeting of this group with the representative of Dominion Envelope.

Mr. Bone's memorandum gives a resume of the activities which had been undertaken up to the time of his memorandum:

" . . .

So far as I can see there is only one point on which everybody is in complete agreement: 'Prices are too low; nobody is making any money; everybody recognizes the situation but nobody trusts anybody else. Consequently, nothing definite has so far been accomplished.'

. . .

It was agreed that each member would submit his costs, based upon a selection of samples to be mailed out generally to the whole Industry. Not all have turned them in, but the costs were compiled, submitted, we have them as has everyone else. Some of them look ridiculous, and it is felt that sooner or later they will

have to be revised. However, in the meantime at one meeting it was hoped that everybody attending would at least refuse to quote prices any lower than the average industry prices. To this end a Committee consisting of Mr. Strickland [Robinson], Mr. Hassler [sic - Bradshaw's] and myself [Canada Foils], worked out a system, mostly through the efforts of Robinson's Costing Department, who put many hours into the project, of being able to price on formula basis to arrive at these average industry costs on any job which came up.

Agreement in principal [sic] for plate charges was reached, and this too was circularized. Also, a list of trade practices which are felt desirable has been compiled and has not yet been released, because there were many contentious issues came up. Not the least of these was the practice by Transparent Paper Products and Wedlock, of granting 1% - 10 days for payment, and Transparent have consistently refused to alter this practice. They have been narrowed down to where they agree to open no new accounts with this practice, and at one time the meeting felt that if Transparent were going to do it everybody should, but some of us refused. Those refusing on an out and out basis were:

Bradshaw's,  
Robinson's,  
Dominion Envelope,

but the others were adamant.

It is not felt that any system which can be drawn up will work without at least a year's preparation, and this has been the experience of the waxed paper group and others for whom Mr. Younger acts as secretary.

. . .

It was pointed out to Mr. Younger that since we have started the meetings the price cutting has become worse than before the meetings were held. He agreed he was not surprised at this, it was always the pattern, and that some people erroneously work on the theory that the more business they could get before the prices might change the more business they could keep, but that in general practice it worked out to be the opposite.



The thing that seems most startling about the whole set-up is that Transparent Paper Products, who were juniors in the business a short time ago, now are supposed to be the largest converter in Canada, and that smaller firms like Wedlock, Polycraft and Nor Baker have so much to say about what they will and will not do.

While these discussions have been going on, it has been discovered that Nor Baker Limited has been selling plain Cellophane to certain manufacturers with their printed wrapper business, and selling this plain Cellophane at the 5% less converter's price and, as a result, has created a situation which makes it difficult for anybody to compete on a decent and more ethical basis. Because of this a meeting was held privately between Mr. Hassler, Mr. Strickland, Mr. Newell [Dominion Envelope] and myself, and of course, Mr. Younger, to figure out what could be done about it. Approach was made to C.I.L. and they have since put in a system whereby all the converters have been asked to sign a statement that they will not purchase any material except for their own consumption, and we are endeavouring to apply the same pressure on T.C.F., with the results not yet known at the time of dictating this memo.

. . ."

(Serials 17888-92, at pp. 2, 3 and 4)

## 2. Cost Surveys and Cost Formulas

Among the first activities undertaken in connection with the associated converters of cellophane and polyethylene was the preparation of cost formulas after cost surveys had been made by Younger. In the case of cellophane the first products dealt with were cellophane bags, sheets and rolls.

### (a) Bags

Younger's first step in developing cost formulas for cellophane bags was the collection from the associated manufacturers of samples of the cellophane bags which they made. From the samples submitted a group judged to be representative was selected for further study. This is indicated in the following extract from the evidence of Mr. Hasler of Bradshaw's:

"A. . . . this is in the initial stages of arriving -- of establishing a costing formula, and we, amongst other people, were asked to take certain work that we were doing and submit it to him in 15 samples so that they in turn could be distributed amongst other people so that each one could cost a similar type of work.

Q. That is, a sample would be sent out along with a blank cost sheet?

A. No, no cost sheets. Every one of these items that were mentioned here represented work that we had done. We were asked to submit 15 samples of each one of these jobs which would be sent out, presumably, to 15 different manufacturers to obtain their independent cost. That is how Mr. Younger established his costing formula."

(Evidence, pp. 2018-19)

The form in which cost data were sought from the associated companies by Younger is illustrated by Serials 12874-79 and 12948, which relate to a "featherlight sweater bag". These serials are questionnaire forms which provide for a breakdown of manufacturing costs into (1) cost of materials, (2) cost of printing plates, (3) manufacturing expenses, (4) administrative expenses, (5) freight, and (6) original art work. These costs were filled in by the manufacturer for 25,000 bags, 50,000 bags, 100,000 bags, 250,000 bags and 500,000 bags.

The completed questionnaires were returned to Younger for compilation and the preparation of cost formulas. The Statement of Evidence reviews the cost data submitted by the associated converters for featherlight bags as follows:

"44. . . .

In this connection it is noted primarily that in respect of every cost component, except material, there was a wide disparity in amounts reported by different companies. In addition to this the following general matters relating to reported cost experience are of interest:

1. Printing Plates and Make-Ready Time

Most companies showed both these expenses as constants which, in per-unit terms, were reduced proportionally

as the quantity of the run increased. BRADSHAW'S and NOR BAKER, however, showed printing plate costs as a factor which remained constant per unit of production regardless of quantity produced.

2. Material Waste Factor

Most companies showed the waste factor as a decreasing per-unit cost as the run increased, but TRANSPARENT and WEDLOCK showed it as a constant per-unit cost.

3. Machine Running Time

Only ROBINSON recognized decreasing per-unit cost for this cost factor as the run increased, all others showing it constant per M Bags. According to ROBINSON, it decreased until a 100,000-bag run was reached and thereafter became constant.

4. Factory Overhead

WEDLOCK and ROBINSON showed a decreasing per-unit cost for this factor; all others represented it as constant.

5. Administrative Expenses

These are usually broken down into management expenses and selling expenses. Only TRANSPARENT indicated constant per-unit costs for management expense. TRANSPARENT, DOMINION ENVELOPE and BRADSHAW'S showed selling expenses as constant per unit and the other three showed them decreasing. The effect of TRANSPARENT's method of calculation of these costs is to represent them as slightly increasing proportionately to total factory costs as the size of the run increases. All the other companies calculated administrative expenses as fixed percentages of total factory costs, at widely different rates as follows:

Administrative Costs			
	<u>Management</u>	<u>Selling</u>	<u>Total</u>
	(%)	(%)	(%)
TRANSPARENT	3.79-4.0	7.73-8.25	11.52-12.25
WEDLOCK	-	-	25
NOR BAKER	-	-	20
DOMINION ENVELOPE	6	8	14
WEB WRAPPINGS	2	3	5
ROBINSON	7.4	8.6	16
BRADSHAW'S	-	-	10

45. When Mr. Younger received the cost sheets referred to above he summarized them on a form called a 'Basic Cost Recapitulation', the one related to the series of documents just referred to being Serial 14443 . . . This recapitulation sets out the figures received from all converters in respect of the 100,000-bag run of the particular job, and calculates the arithmetic average for each cost factor and for total costs. This 100,000-bag run was regarded as basic cost. The companies' figures for smaller and larger runs were the subject of an additional compilation called a 'Costing Reconciliation', the one corresponding to the documents just referred to being Serial 14442, . . . This computation merely averages the total costs reported by each company for each of the different-sized runs, and expresses these averages as plus or minus percentages from the 100,000-run average cost. These two documents came from the files of BRADSHAW'S, but there were many duplicates in the files of others."

The cost data compiled with respect to various types of bags were said to have been used by Younger to work out cost formula which could be used to cost any order for cellophane bags. Mr. Waldie, formerly of Web Wrappings, gave the following evidence:

"Q. To your knowledge did Mr. Younger use these averages to work out a formula?

A. To work out this formula here.

Q. And the formula itself, using that formula could you work up costs or prices for any job, any order?

A. Fairly closely.

Q. Using the formula would you work out a cost or a price?

A. Cost. . . ."

(Evidence, p. 36)

What was said by Mr. Kay of Mastex to have been the first cellophane formula received from Younger (Evidence, p. 3099) is illustrated by Serials 22976-79, which consists of sheets entitled "CELLOPHANE BAGS. Costing Formula. Based on Average



Industry Cost January 1954." This gave detailed instructions for calculating the cost of any custom-printed cellophane bag and included two examples worked out to show the application of the instructions. This costing formula was accompanied by tables entitled: "CELLOPHANE BAGS. MATERIAL FACTOR. Cents per 1000 sq. Inches"; "CELLOPHANE BAGS. MAKING FACTOR. Per 1000 Bags"; and "CELLOPHANE BAGS. PRINTING FACTOR. Per 1000 Bags".

The documentary evidence shows that the formula was revised to include material factors for grades not originally covered and a formula was added for rotogravure printing which some converters were equipped to do. Two revisions were made in the material factors in the formula, one on February 7, 1955 and the other on December 1, 1955. Both revisions were upward.

(b) Sheets

As previously mentioned, the collection of cost information and preparation of cost formulas were also undertaken by Younger for cellophane sheets. This work was carried on in much the same way as has already been described in connection with bags through a basic cost recapitulation, costing reconciliation, costing formula and related tables for material and printing costs. What appears to be the first formula for sheets is shown by Serials 8437-42 which are entitled "CELLOPHANE SHEETS. Costing Formula. Based on Average Industry Cost January 1954". The Statement of Evidence gives the following general description of the costing formula for cellophane sheets:

"51. . . . It is in the same general format as the original cellophane bags formula, and its basic material factor figures correspond therewith. It consisted of one page of instructions on how to use it, one page of material factors in cents per 1,000 square inches, and four pages of printing factors. Unlike the bags formula, the material factors did not vary in accordance with the length of the runs, and there was no making factor provided, the latter presumably because the sheet-making process is fully integrated with the printing operation. The printing factors were much higher and on an entirely different basis for sheets than bags.

52. Like the bag formula, the sheet formula was revised by adding material factors for some additional grades of cellophane and was reissued. A rotogravure formula was added at some indeterminate date. Both the material and printing factors were revised on February 7, 1955, and the material factors revised again on December 1, 1955. . . ."

(c) Rolls

Cost formulas for printed cellophane rolls were developed by Younger in much the same way as for bags and sheets. The original cost formula for rolls appears to be "PRINTED CELLOPHANE ROLLS. Cost Per 100 Lbs., Based on Average Industry Cost January 1954" (Serial 14331). Like the formula for printed sheets it was revised to include a few new grades of cellophane (Serial 18275). This gives the cost for runs of 500 lb., 1,000 lb., 2,000 lb., 5,000 lb. and 10,000 lb., for one-colour, two-colour, three-colour and four-colour rolls. Instructions were included to cover such matters as metallic inks, ink coverage, narrow rolls and other grades. Further revisions of the cost formula were made on February 7, 1955 and December 1, 1955 (Serials 18270 and 16510).

3. Standard Trade Practices

In addition to the cost formulas which have been described, there was a compilation "CELLOPHANE. STANDARD TRADE PRACTICES" which was revised on June 22, 1955 (Serials 18308-09). This embraced terms and conditions of sale and set out extra charges for additional work or services not covered by the cost formulas. The directions in the Standard Trade Practices were made in specific terms, as is indicated by the following items:

- "1. Costing analysis does not include sales tax.
2. Terms net 30 days.
3. Original art work and plates to be charged to customer as per schedule of minimum cost.
4. Orders accepted for specific quantities for one delivery to one customer within 90 days of receipt of order - no split shipments.  
Exception - Hosiery Envelopes ordered by chain stores for delivery to Hosiery Mills - such shipments to commence within 60 days of receipt of order and be completed within 90 days of first shipment.
5. Deliveries to be made freight or cartage prepaid on shipments of 100 lbs. and over. Shipments of less than 100 lbs. gross weight, transportation is paid by customer.
6. Over runs or under runs shall not exceed 10%.

7. Claims for defective material shall not be considered unless made within 90 days of receipt of first shipment of goods by customer.
8. Bags, Envelopes, Tubes and Sheets, billings are invoiced in thousand lots - Rolls are invoiced in pounds.
9. On seasonable stock design Bags, Sheets, or Rolls, no charge to be made for plates.
10. Maximum number of colors on bags to be charged to customer regardless of differential in face and back.

. . .

14. SPECIAL PACKING FOR SHEETS (BAGS)  
Add 5¢ per 1000 sheets for each added package required compared to 1000's. i.e. Packs of 500 sheets - 1 extra package or 5¢ per 1000 sheets. Packs of 250 sheets - 3 extra packages or 15¢ per 1000 sheets.

. . .

23. Any distributor who is also a consumer of specialty printed cellophane or polyethylene bags, sheets or rolls shall not receive a commission or discount on such bags.  
Printed stock bags are excepted.

. . ."

## B. Polyethylene Products

### 1. Organization of Group

Arrangements among converters of polyethylene products proceeded concurrently with those relating to cellophane but the preparation of costing formulas took somewhat longer to complete. Although questionnaires were apparently circulated by Younger in February, 1954 to secure costs of the associated companies for polyethylene bags, replies were not made in sufficient detail or on a wide enough scale to permit the preparation of cost formulas for a number of months. A memorandum of Mr. Porter of Mastex to Mr. Kay of the same company dated March 8, 1954 refers to early meetings of the group and gives the writer's opinion as to the purpose which might be served by the collection and dissemination of information on costs:

" . . .

Ian [Mr. I. Waldie, formerly of Web Wrappings] told me that they have had some get-togethers here and that all converters are tired of working for the extruders and they are now endeavouring to work out a cost system and that is why they have forwarded to you and which they would like returned as soon as possible, a sheet showing manufacturing and selling costs for printed poly bags. So far they are working ONLY on printed bags as they do not feel that the present time is opportune for working anything out on plain bags due to the numerous amount of converters, large and small, now in the business but they do feel that something can be done on printed where there are a limited number of converters. Ian told me that he feels very sure that Bradshaws, Robinsons, Transparent, and all other large converting printing houses, can get together, compare their costs, and work on a profitable basis and the present cost chart is the beginning of this endeavor. I told Ian that we would have no part of any method of pricing unless 100% of the converters were working on the same basis as we had been fooled before and were not interested in advancing our prices in some instances just to let our competitors take business away from us as had happened last Fall. However, I brought up the matter of Polyethylene Bag Company in Winnipeg and Ian felt that you may be able to do something with this account there and you might let me know your feelings on this converter. As you know Wysylik [sic] has been quoting all over the board down here and it is a tough job making a quotation when you never know what some competitor is going to throw at the customer. However, if he can be encouraged to come to some method of pricing then it will eventually become a matter of sales and service that will count in the final analysis of getting business.

One thing Ian asked me to impress on you was the fact that your cost picture should be kept up fairly high as it will be the intention to more or less average costs and then work out a pricing basis from that. In this connection between ourselves we have our distributors to take into consideration on their 10% selling so that should be shown in your sales cost. When these figures are completed would you please either send them along to me in duplicate or mail one direct to Ian Waldie with a copy to me so that I will know what figures you are working on.



. . .

P.S. I also learned there will be a Secretary for the Converters Assn. a man by the name of Younger, who is Secretary now for the Waxed Paper Manufacturers Assn. and this latter Association seems to work very well, or did when I was selling for Appleford in Vancouver, as at that time cut prices on bread wrappers were unheard of."

(Serials 8986-87)

Expenses of the group for the three-month period May to July, 1954 were invoiced by Younger on August 13, 1954 and included amounts for meetings on May 4 and 19 and July 19, 20 and 27, 1954 (Serials 21703-04).

Serials 20652 and 16145 indicate that Younger was still endeavouring to secure cost information from the converters early in May, for on May 5 he sent identical letters to National Carton and Campbell asking that they complete the costing sheets on polyethylene bags and forward them to him before the May 19 meeting. Transparent wrote Younger on May 13, 1954 enclosing costing figures on the manufacture of polyethylene bags (Serial 9340). Cost information was still being gathered early in June, 1954 (Serials 21723, 16154) and even as late as June 29 when Mastex telegraphed Younger:

"WILL SEND COSTINGS BY FRIDAY. REGRET DELAY  
MOVING"

(Serial 9005)

On July 21, 1954 Younger distributed a formula covering polyethylene bags (Serials 9007, 21709, 20664). This is shown by letters he sent to Mastex, Wedlock and National Carton as follows:

"Enclosed herewith is a costing formula covering Polyethylene Bags based on a recent costing analysis made by us.

This covers 2 color printing and a further study is being made of differential in 1 to 4 color jobs."

(Serials 9007, 21709, 20664)

By July, 1954 arrangements were made to hold meetings of both cellophane and polyethylene converters at the same place and on the same day. This is indicated in Mr. Younger's notice issued July 13, 1954 with regard to the meeting on July 27:

"A meeting of the Cellophane and Polyethylene Industries will be held on

Tuesday, July 27th  
in the writer's suite  
King Edward Hotel, Toronto  
at 10:00 a.m.

Cellophane will be dealt with at the morning session and Polyethylene in the afternoon and evening session if necessary."

(Serial 21713)

It has already been indicated that the activities of the polyethylene and cellophane groups were terminated at the same time in May, 1956.

## 2. Cost Surveys and Cost Formulas

The documentary evidence shows that cost surveys were made on the subject of specially printed polyethylene bags similar to those which were made for cellophane products. The figures received by Younger were again the subject of basic cost recapitulations and costing reconciliations (Serials 14340-53 and 15046-52). The types of bag which were the subject of basic cost recapitulations and costing reconciliations were as follows:

<u>Description of Bag</u>	<u>Serial Number</u>
Size 4" x 2" x 12" - 2 Colours Face and Back - Thickness of Film .0015	14340-41
Size 5" x 2" x 12" - 3 Colours Face - Thickness of Film .0015	14342-43
Size 5" x 3" x 15 1/2" - 3 Colours Face - Thickness of Film .0015	14344-45
Size 6" x 3" x 15" - 3 Colours Face - Thickness of Film .0015	14346-47

<u>Description of Bag</u>	<u>Serial Number</u>
Size 6" x 3" x 18" - 3 Colours Face and Back - Thickness of Film .0015	14348-49
Size 7" x 3" x 15" - 3 Colours Face - Thickness of Film .0015	14350-51
Size 7" x 3" x 15" - 3 Colours Face - Thickness of Film .002	14352-53

The basic cost recapitulations showed the costs of material, printing plates, manufacturing expenses, administrative expenses, freight and total cost per 1,000 bags excluding original art work and plates for eight different manufacturers. This basic cost recapitulation was based on a run of 100,000 bags. The costing reconciliation gave, in addition to the average total costs for each of the eight exhibitors for a base run of 100,000 bags, figures for each of the manufacturers for runs of 25,000, 50,000, 250,000 and 500,000. High, low and average costs per 1,000 bags were shown for each of the runs from 25,000 to 500,000, and the percentage by which the costs of the smaller and larger runs per 1,000 bags differed from the base run of 100,000 bags.

As in the case of cellophane products, Younger prepared a costing formula for polyethylene bags. The formula provided for cost of material factors, bag making cost factors, printing cost factors for one, two, three or four colours, face only, and one, two, three or four colours, face and back. The costing formula referred to in Serials 14315-17 was based on average industry costs June 1, 1954. This costing formula was amended effective January 17, 1955 (Serials 3214, 3213) and revisions in the material cost factors were made under date of September 1, 1955 (Serial 3287), September 2, 1955 (Serial 3286) and January 15, 1956 (Serial 3216).

### 3. Standard Trade Practices

Younger also prepared a list of "POLYETHYLENE. STANDARD TRADE PRACTICES" (Serials 14318-19) which were similar in a general way to those which were issued by him in respect of cellophane products. A revised set of "POLYETHYLENE. STANDARD TRADE PRACTICES", revised June 21, 1955, was also issued (Serials 11538, 11539). Another document was "PLATE AND ART WORK - MINIMUM COSTS", in which the following appears:

"On new designs originated for the customer, art work and original plates shall be costed on the following minimum basis, irrespective of quantity."

(Serial 11540)

The document then sets out instructions to take account of and to relate plate measurements to costs and to take account of cost differences for various numbers of colours.

No costing formulas appear to have been developed for polyethylene sheets and rolls.

C. Discussion of Costs and Other Matters  
at Group Meetings

As previously indicated the cellophane and polyethylene groups do not appear to have had any formal organization, and the evidence in the inquiry does not contain minutes of meetings or any consistent record of activities. The following summary of information as to frequency of meetings is given in the Statement of Evidence:

"109. . . . In the early period when dates of meetings were specified, they were frequent, e.g. from March 28 to May 31, 1954, there were five meetings concerned with the cellophane alone (Serial 13375). No minutes of these meetings were kept and only on one latter occasion was there an agenda. Mr. P.S. Newell, of DOMINION ENVELOPE, thought that meetings were held about every two months (Evidence p. 1225). Ian S. Waldie, of WEB WRAPPINGS, said he attended about three or four per year, but that he missed most of those that were called (Evidence p. 20). Mr. Punfield said there were about four meetings during the period between January and June 1956, when the Association was administered by him, but the last two were primarily concerned with discontinuance of the service he was performing. He said that the meetings were informal, and that no agenda or minutes were kept, because it was not considered necessary to do so. The first two of the meetings referred to dealt with employing PUNFIELD to succeed YOUNGER, with a cost survey then being done and a wide range of other industry problems (Evidence pp. 217-244). . . .

. . . "



Mr. Punfield's evidence that no agenda or minutes were kept because it was not considered necessary to do so should, however, be considered in relationship to an extract from a memorandum written by Mr. A. D. Bone, General Sales Manager of Canada Foils to H. G. Cook, Assistant to the President of that company, on June 17, 1954, part of which has been previously quoted:

"I have your request for information on the Cellophane Association, and have been reluctant to put anything in a memo, because all who attended the meetings agreed that nothing would be put in writing. However, I agree with you that Mr. Young will be interested in knowing what is going on.

. . ."

(Serials 17888-92, at p. 1)

The relation of selling prices to average industry costs was discussed at group meetings. Mr. S. F. Pearman, then General Manager of Dickinson, testified as follows:

"THE REPORTER: [repeating question] 'Q. To your knowledge was there any discussion at the meetings you have attended about a converter selling below figures that could be obtained from the cost formula?'

THE WITNESS: Yes, there were discussions.

MR. THURM: Q. Would you tell us about those, please?

A. Specifically, I do not think I could, but I could give you a general outline. A converter would be asked how in heaven's name he could quote a price below the industry average cost. Conversely, another converter -- some of the larger ones would get up and say: 'I will sell at any price I feel I can sell at and I will answer to no one'. So, both of those statements were made. Nevertheless, if a man volunteered how he could quote and could substantiate with reasonable talk I cannot see how anybody could object . . ."

(Evidence, pp. 2179-80)

The testimony of Mr. V. D. Strickland, Executive Vice-President of Robinson, shows that the costing formulas issued by Younger were discussed in a detailed way at group meetings:

"Q. Was the formula which Mr. Younger prepared discussed at the meetings?

A. Oh, yes. The method of arriving at it, and all the details in connection with the formula, were discussed, yes."

(Evidence, p. 1909)

Some indication of the discussion of average and individual costs at group meetings is given in the following portion of the evidence of Mr. Braithwaite, formerly of Transparent:

"A. What took place at the meetings was an association in relation to costing. Now, the argument was that - that all costing in relation to items should be approximately the same, therefore there should be very little variation in reference to the unit price. Now, this refers to a certain extent on the - like the Kidder Press. If you have got a Kidder Press in 5 places, the performance of that Kidder Press in operating plants, the same - should be the same; therefore there is no one concern can say, 'Well, we do twice as much as what you do in our run'; and the meetings, in fact, were - regardless of the end - the end view, or what may have been the purpose, from a director's standpoint, that basically there should not be a terrific spread in the actual selling price. If we get down to basic prices your costs should be the same. Now, there was a big exchange of cost figures, in the main, at these meetings.

Q. By that do you mean that the companies exchanged costs?

A. To a certain extent, yes.

Q. Perhaps you could go into detail there and tell us exactly what happened?

A. Well, now, I don't want to - all I can say is that it was arrived at that bag making should be at a certain figure; that printing per thousand should be at a certain figure; that waste should be at a certain figure; and that is the basis of the discussions; and therefore your selling price, which would be 58% as the case may be, if everything

was perfect, the figure should be a certain figure. But I will say one thing, at any of those meetings at no time was there full accord in relation to our price submissions. Now, I can quote a certain price on the basis of my cost, . . .

THE CHAIRMAN: Just a moment. You say there was no full accord on price at all times. Do you mean price or cost?

A. On actual selling price.

THE CHAIRMAN: Oh.

A. On actual selling price, at no time, and I attended an awful lot of those meetings. I think Mr. Hebert only attended perhaps 5 or 6 of them and I attended the rest. It got very very bitter in this respect."

(Evidence, pp. 1532-33)

Discussions at group meetings also included such matters as trade practices, jobbers and overdue accounts, according to the evidence of Mr. Porter of Mastex:

" . . . We developed a credit report where overdue accounts were reported, and these companies who owed money past a certain period were all listed. We did a lot of work on costs, from which finally developed an average industry cost schedule. What other things were discussed -- trade practices, and there were discussions of jobbers."

(Evidence, p. 1230)

D. Formula Costs and Average Industry Costs

The relationship of the costs of individual products calculated by means of the cellophane and polyethylene cost formulas issued by Younger to the average industry costs as collected and tabulated in connection with the cost surveys was examined in a detailed way by the Director. Individual examples as well as summaries of the results of such comparisons are given in the Statement of Evidence. No question was raised as to the accuracy of the calculations made, but argument was addressed to the Commission that differences between average industry costs and formula costs might be due to Younger having secured additional or revised cost data which are not included in the material secured in the inquiry.

1. Cellophane Bags

The basis on which the comparisons were made with respect to cellophane bags is described in the Statement of Evidence as follows:

"49. The oral and documentary evidence does not reveal the method by which the formula was derived from the costing information submitted by the converters, nor can it be readily deduced by examination of the figures. It is possible, however, to test whether the formula is closely correlated with the average industry costs submitted to Mr. Younger. In order to do this, several of the jobs which are the subject of the basic cost recapitulations have been taken as examples. These basic cost recapitulations include the specifications for the bags concerned in sufficient detail to permit the application of the formula so as to arrive at the total formula cost. The original issue of the formula has been used because there is no way to determine on what date the costs covered by the basic cost recapitulations were reported. If the costs were submitted after the adoption of upward revisions in material factors, the effect would be to increase any spread between average industry cost and formula cost as shown by the following calculations. Similarly, if because of lack of fuller specifications which would require upcharges for certain secondary operations (such as extra ink coverage), some upcharges have been omitted, the spread would also be understated in the following calculations. . . ."

The following table from the Statement of Evidence summarizes the results of computing formula costs and then comparing these with average industry costs for five different bags which are listed as Examples 1 to 5. The final three columns in the table, which are included under the heading "Spread", express the difference between the average cost for 100,000 bags and the formula cost for 100,000 bags as a percentage of the average cost.



Cellophane Bags

Basic Cost Recapitulation						Formula Cost	Spread (%)		
Ex- ample No.	No. of Report- ing Firms	No. of Firms Below Average Cost	High Cost	Low Cost	Aver- age Cost		High Cost	Low Cost	Aver- age Cost
			\$	\$	\$	\$			
1	8	4	21.01	16.57	18.96	19.92	-5.2	20.2	5.1
2	9	5	14.34	11.41	12.54	12.49	-12.9	9.5	-0.4
3	8	4	15.54	13.31	14.54	16.41	5.6	23.3	12.9
4	9	5	15.96	12.81	14.10	16.00	0.3	24.9	13.5
5	8	4	13.69	11.21	12.56	14.51	6.0	29.4	15.5

It can be seen from the above table that the costs calculated from the Younger formulas for these five examples of cellophane bag were such as to yield spreads above the average costs of the reporting firms in all cases except Example No. 2, in which the formula cost was 0.4 per cent below. Costs calculated on the formula basis varied from 9.5 per cent to 29.4 per cent above the costs of the lowest-cost producers, as shown in the documents. In three out of five cases the formula costs were higher than the tabulated costs of the highest-cost producers. Hence it is clear that the formula, however it was derived from the basic information supplied by the producers, yielded costs which, on the basis of the examples, were in the majority of cases well above the average reported costs of the firms surveyed by Younger.

In connection with this point it may be recalled that in the memorandum of March 8, 1954, already cited, Mr. Porter of Mastex wrote:

" . . . Ian [Waldie] asked me to impress on you . . . the fact that your cost picture should be kept up fairly high as it will be the intention to more or less average costs and then work out a pricing basis from that."

(Serials 8986-87, at p. 1)

It should be borne in mind also that the reported costs included administrative expenses which embraced:

- "(a)     Management - Office, Accounting, Inside  
          Selling and other Administrative Expenses
- (b)     Selling - Salesmen's and Agents' Commissions,  
          Travelling Expenses and Other Selling Costs"

(Serial 12873)

The fact that in the examples given above costs derived from the formula were in all instances except one substantially above the average industry cost suggests the possibility that formula costs were intended to cover more than full costs or that the amount derived from the use of the formula could be used as a price as well as a basis for cost. In his argument before the Commission counsel for Bradshaw's said:

"On behalf of Bradshaws Limited I deny the allegation that the cost formulas were by mutual consent used by the companies named in paragraph 256 of the Statement as a minimum price or as minimum prices. There is no evidence of any arrangement or agreement among the members of the group which retained Mr. Younger's services. While some of the companies used the costing formula as their selling price, it is equally clear that others used what was termed in the statement as the average industry cost as their selling price. I think it is also clear from the evidence that no company would jeopardize its position in the industry with an established customer by allowing its competitors to under-sell it."

(Hearing, p. 168)

It may be accepted, therefore, that the cost figures prepared by Younger were used for pricing purposes by some of the members of the group. However, there was a general denial on the part of witnesses in the inquiry that the cost formulas were intended to be price formulas. It is also evident from the testimony of witnesses that a clear distinction was not maintained by all members between a cost formula and a price formula. The following part of the evidence of Mr. Waldie, formerly of Web Wrappings, illustrates both aspects:

"BY MR. THURM:

Q. Perhaps you can tell us, Mr. Waldie, was the formula that Mr. Younger put out intended to be a price formula?

A. No, it is a cost formula.

- Q. It was not intended to be a final selling price that could be figured out from this formula?
- A. No, it is a cost formula and you have to take all sorts of things into consideration before giving a final price. That was one thing. This is another that I considered and the competition, of course, is the third and the last one.
- Q. From your attendance at meetings of the association do you know if some of the companies regarded it as a price formula?
- A. Yes.
- Q. Do you know which companies they would be? Can you tell us?
- A. No, I couldn't, because what happened I don't know."

(Evidence, p. 95)

The evidence of Mr. Eby of Nor Baker is to the same effect:

- "Q. I show you document 15361 dated August 28, 1954. This was obtained from Nor Baker, Toronto. Do you recognize that document?
- A. M'hm.
- Q. Is that your initials spread across the last three lines?
- A. Yes.
- Q. Mr. Johnston states in the second paragraph:
- 'Now that our prices are stabilized  
there is little or no selling point  
price-wise.'
- What did you understand him to mean by saying 'Now that our prices are stabilized'?
- A. He was using a terminology which we use in our daily round of activities loosely when we say prices and costs. The two are analogous in a great many cases.

Q. Could you explain that?

A. Both those things -- we use cost and price interchangeably."

(Evidence, pp. 2257-58)

As already indicated, argument was put forward by counsel that the comparisons made by the Director were not necessarily valid because of the possibility that the cost formula might have been based by Younger on different cost data than those shown in the documentary evidence. The Commission was referred to certain differences which appear between the figures in different documents which show cost data for the same product, and it was submitted that these indicate that Younger re-checked the cost information furnished by the individual companies and may have secured revised cost figures which are not contained in the documentary evidence. The Commission has given particular attention to the documents referred to and it does not appear that the differences are of a nature which would indicate that Younger may have used other, revised, and higher cost figures than those shown in the documentary evidence in preparing the cost formulas. It would be expected that if substantial revisions were made in the cost information some references would be found to them in the extensive series of documents which are in evidence.

In addition to the feature that formula costs for cellophane bags appear to have been usually higher than average industry cost, there is the situation that there was a wide variation in the reported costs of individual firms. Even if the formula cost had been the same as average industry cost in each instance it is apparent that a number of firms could have sold at the average industry cost and had substantial margins over their reported costs. In the case of Example No. 1 in the above table the following costs were reported for eight firms which were listed by letters B to I:

B	16.57
C	21.01
D	20.63
E	17.55
F	19.59
G	18.53
H	17.13
I	20.64
Average	18.96
Source:	Serial 14443.



Out of the eight firms listed, four had costs less than the average and three of these firms had substantially lower costs.

## 2. Cellophane Sheets

Similar comparisons are made in the Statement of Evidence for six different examples of cellophane sheet from the specifications and cost formulas prepared by Younger. The basic cost recapitulations, the formula costs, the spreads between the formula costs and the average costs for each of these six sheets are shown in the following table:

<u>Cellophane Sheets</u>									
Basic Cost Recapitulation						Formula Cost	Spread(%)		
Ex-ample No.	Report-ing Firms	No. of Firms Below		Average High		Aver-age Cost	High		Aver-age Cost
		Average Cost	Cost	Low Cost	age Cost		Cost	Low Cost	
			\$	\$	\$	\$			
1	8	4	9.14	7.17	7.94	8.35	-8.6	16.5	5.2
2	6	3	31.19	20.56	26.29	25.71	-17.6	25.0	-2.3
3	8	3	15.24	12.16	14.04	15.24	-	25.3	8.5
4	8	4	9.63	7.42	8.66	10.02	4.0	35.0	15.7
5	8	5	22.99	18.64	19.74	19.91	-13.4	6.8	0.9
6	8	4	5.73	2.84	4.61	4.66	-18.7	64.1	1.1

Here again it is apparent that in the majority of instances the formula cost is higher than the average cost as reported by the firms surveyed by Younger. In each of the six examples of cellophane sheet the low-cost producers would have made spreads varying from 6.8 per cent to 64.1 per cent above their respective costs. In the case of the high-cost producers the formula would have yielded a 4 per cent spread in the fourth example, nothing in the third, and losses ranging from 8.6 per cent to 18.7 per cent in the case of the other four.

## 3. Cellophane Rolls

In the case of printed cellophane rolls the Statement of Evidence presents comparisons of industry costs and formula costs derived from the basic cost recapitulations and the first costing formula. The results of the calculations are shown in the table which follows:

Printed Cellophane Rolls  
(Cost per 100 lbs.)

Job (abbreviated)	Reported Costs			Formula
	High	Low	Average	Cost
	\$	\$	\$	\$
Christie Brown Premium Crackers	107.63	92.21	100.75	101.00
Canada Bread Rye Loaf	114.66	96.30	105.52	110.00
Christie Brown Peanut Cream	123.90	105.70	112.84	110.00
English Style Toffee	135.66	105.36	119.23	115.00
Kraft Foods Toffee	114.08	98.52	103.24	105.00
Christie Brown Waffle	109.91	92.56	102.33	100.00
Modern Packers Bacon	137.45	111.47	122.50	123.00
Neilson Christmas Design	189.87	116.86	144.66	136.00
Lowney Campfire	114.31	100.48	106.32	104.00

It will be noted from the above table that the formula cost in five out of nine cases is below the average cost for the firms reporting to Younger. In the case of all of the highest-cost firms the reported costs were higher - and sometimes very much higher - than the formula costs. In the case of the low-cost firms the formula costs were higher than all. Thus, while the low-cost firms would have had spreads of a substantial character if they had sold at prices equal to the formula costs, the high-cost firms would have all suffered losses, and in some cases substantial losses, if they had sold at prices equal to the formula costs.

In connection with the objection taken to the position of the Director that formula cost gave a spread over industry cost it was argued that the comparisons presented in the Statement of Evidence are inconsistent with any calculated attempt to include a mark-up over cost in the cost formula. It is clear that the comparisons made by the Director do not show any consistent pattern in the variation between formula cost and industry cost, and, as just pointed out in the case of cellophane rolls, the majority of examples had a formula cost below the industry cost. However, of the total of 20 examples of formula cost presented in the Statement of Evidence, 13 provided for spreads of varying magnitude above average cost. Of the seven formula costs which were below average industry costs, five were for printed cellophane rolls.

## CHAPTER IV

### PRACTICES ARISING OUT OF ASSOCIATION ACTIVITIES

#### 1. Evidence as to Purpose and Use of Cost Formulas

Reference has already been made to the evidence given by witnesses in the inquiry that the arrangements among the associated companies did not involve agreements to fix the prices of the products covered by the cost formulas. It must be kept in mind that the cost formulas applied to some only of the products made by the various companies and that in a number of instances the evidence of witnesses appears to relate to a wider range of products than those covered by the cost formulas.

Mr. Hasler, President of Bradshaw's, gave the following evidence:

"Q. What was the purpose of the costing formula?

A. Well, the purpose of the costing formula, from our opinion, was basically the normal curiosity we have in business to see how it compares with what we are doing, and also we expected that it would be of some assistance to other firms in the business who had no costing departments.

Q. What did your Company use the costing formula for?

A. The costing formula that we got from Mr. Younger's office?

Q. Yes.

A. Well, we eventually ended up -- not eventually, but we ended up by using the costing formula to a very large extent as our selling formula -- price -- but not entirely.

Q. Perhaps you could explain that for us.

A. Yes, there were some items in the costing formula, because our business is so general, for which there was never a costing formula provided, and we considered these costs much too low for our ability to manufacture at

and sell at, and in other cases for competitive reasons we could not sell at them, and we had to go below that.

Q. I see --

THE CHAIRMAN:

Q. Do you mean by that, Mr. Hasler, that for some items because of competition your selling price had to be lower than the total of the costing formula?

A. That is right. If you wish that a little further clarified I can tell you just what it means to us. Competition developed in some accounts that had been accounts of Bradshaw's for many years, and when that competition developed we had to make up our minds whether we wanted to retain that account, to retain productivity in our own Company, or -- it is a fact that a company is rather reluctant in leaving an account go even though there is some semblance of not losing everything on it, and then we went below that.

MR. THURM:

Q. Do you know the date on which the formula was first taken into use by your Company -- take the cellophane formula?

A. I would have to guess. I am not positive."

(Evidence, pp. 1964-66)

A significant point in the adoption by Bradshaw's of the cost formula as a selling price in the manner described by Mr. Hasler was that the company informed competitors of its policy. This is made clear by the further evidence of Mr. Hasler in which he explained the circumstances in which the announcement of the intention of the company was made:

"A. . . . the way I would try to explain it to you is that the costing formula was adopted by us as a selling price with the exceptions that I have named, sometimes higher and sometimes lower. We announced that intention that we would do it and gave our reasons for it, and we did find that by and large others had adopted the same procedure because we found ourselves alike in prices, but it was not constantly so. There were many deviations from it, otherwise we would never have had any need for even selling below that cost



formula. Our intention was to use that costing formula, and we announced our reasons for it, as to why, and, I suppose, reluctantly on the part of some, and others not so reluctant, they figured: 'Well, that is all we can do to remain competitive'. . . ."

(Evidence, p. 1977)

Mr. Hebert of Transparent gave the following evidence:

"Q. Did you follow that formula as set up there?

A. No.

Q. In your pricing?

A. No.

Q. Was that formula published, was it adopted at the meeting?

A. That was not at the meeting, this was not talked at the meeting I attended.

Q. Were any similar formulae discussed at any of the meetings you attended?

A. Just what ---

Q. That or other costing formulae?

A. Are you talking about export or are you talking about general?

Q. Either export or general?

A. These costings were all discussed, the matter of costing in the industry was discussed.

Q. Was there any agreement the formulae be adopted and adhered to by the manufacturers who took part in the discussion?

A. Do you mean by the agreement?

Q. An agreement amongst themselves that this was a line they would follow? It needn't be an expressed agreement in writing, but was there an understanding between the converters who took part in this discussion; did they

leave the meeting with the understanding they would, they and the others would follow these formulae ?

A. They would try to follow."

(Evidence A, pp. 38-39)

Mr. Hebert also testified:

"Q. We will assume you adopted these and approved this formula at a meeting. Does this figure here indicate a price that you could charge, the selling price ?

A. Some items we couldn't charge this price and make a profit, we couldn't. Some items we could charge this price and make a profit. As I said before, in the bag business, for example, we are not good at making bags, as other type of business. So, in this different type of business, for example, we would have to charge a little more because this costing formula would not be enough for our method of producing. In the roll business, we could charge a little less because we are more proficient in it."

(Evidence A, p. 45)

Mr. Waldie, formerly of Web Wrappings, gave the following evidence:

"Q. Was there any understanding among the companies that were members of the association that the costs or prices, whichever you prefer to call them, that you could work out for an order by using this formula would be minimum prices in the industry?

A. That was attempted.

Q. Was that discussed at a meeting?

A. Well, it was discussed to this extent, that if somebody thinks that his costs are a long way below these figures he should think again. Bear in mind this, that everybody in this business pays the same price for their material. In other words, I buy from Viscene and Dupont, whoever it is, and what you are working with is about 60 to 75 per cent material and the remaining amount of your costs are labour, machinery and so on. Well now, you have only got a small percentage of the total amount in which there can be a variable, do you see, so that any large

discrepancy from what people's average experience has been would indicate that there is probably something overlooked. There was in my case."

(Evidence, p. 41)

Mr. Wasylyk of Poly Bag was examined about a document in which reference was made to a gentlemen's agreement:

"A. Well, the gentlemen's agreement is that everyone was paying for a certain amount of poly - like I would say, around 65 to 75 per cent of the cost of the bag per thousand was for polyethylene itself, and then we had a basis of what my cost would be on manufacturing the bag first of all into the bagmaking part of it, and then the cost of printing it and the agreement was that I would not go below that price. In fact I couldn't otherwise there was no profit in the product I was going to sell."

(Evidence, pp. 126-27)

The document in question had been sent by Mr. Wasylyk to Mr. H. A. Smith, of Poly Bag's Toronto office, and the latter gave the following explanation in evidence:

"Q. In the second last paragraph from the bottom the first sentence of that paragraph refers to a gentlemen's agreement regarding competitive prices. Do you know what was meant by that statement?

A. Well, we had worked on a formula of costing and the thing is we were instructed not to go below cost or we would lose money selling.

Q. And who were the gentlemen, the parties to this agreement?

A. That would be the association.

Q. Do you know what products were covered by this gentlemen's agreement?

A. In the fact -- we come back to this variation once again in bags being special. There were many times once again when we cut the price and we would be higher in price.

Q. That is not what I asked, Mr. Smith. I asked if you

knew what products were covered by this gentlemen's agreement?

A. Not fully 100 per cent I wouldn't, I wouldn't know what was covered.

Q. Do you know any of the products that were covered by it?

A. Particularly bags, poly and cellophane, yes, but other than that what is covered I don't know.

Q. I see. Did you lay any complaints at this meeting?

A. The complaints would be price cutting or competitive prices, why we would lose an order and somebody else would win. This particular meeting, I can remember it was nothing but continual bickering on price cutting and arguing.

Q. It was not a friendly meeting?

A. It wasn't a friendly meeting or it didn't accomplish any particular purpose because we were always at loggerheads arguing or bickering over price cutting. A fellow would go out and cut a price and find he was underbid and lose the order and he would wonder why or how could we with a supposedly rock bottom formula and still couldn't win. It was that sort of type of affair. As I say, it was nothing but constant bickering and arguments."

(Evidence, pp. 187-89)

Mr. Porter of Mastex made the following statement in his evidence:

"Q. Was there an understanding among the converters that they would not sell below the average industry cost?

A. No, sir, there was not."

(Evidence, p. 1114)

Mr. Kay, also of Mastex, gave the following evidence with respect to the use of the cost formulas:

"Q. Have you got my question? When you speak of the various competitors having a certain price, how do you intend that that price be arrived at? (a) Was there an agreement between them that they should charge a



certain fixed price, or was it a price based on cost by the individual firm?

A. A price based on cost.

Q. What about the question of agreement? Was there any agreement between the parties that they should charge a fixed price?

A. No.

BY MR. THURM:

Q. Mr. Kay, was there any understanding among the converters associated with Mr. Younger that the cost formulae that he provided would be a minimum price basis in the industry?

A. No. That is borne out by the fact that the prices all have been all over the board even during the time we subscribed to that service.

Q. Do you mean both above and below?

A. Yes. It is essential some prices be above or frankly we wouldn't be in business.

BY THE CHAIRMAN:

Q. How did you find the figures shown in the average costing formula supplied by Younger's office as compared with your own costing experience?

A. In certain brackets they were quite close. In the lower quantity brackets we were a little below for the industry cost. In the higher brackets our own costs were higher.

Q. On balance what difference

A. On balance not too much difference, in other words, fairly close."

(Evidence, pp. 3136-37)

Mr. Strickland of Robinson testified:

"Q. Did the cost formula have a direct relation to prices your firm quoted?

A. No. It was certainly a guide. It is one of the services which I felt we would get some value out of by joining the Younger organization."

(Evidence, p. 1911)

## 2. Evidence as to Effect of Cost Formula System

While the witnesses who were examined during the inquiry did not consider that the discussions as to costing formulas and prices among the associated companies resulted in an agreement to fix prices or minimum prices, it is apparent that there was expectation that the joint activities would have results which would be advantageous to the participants. Such an expectation could only be realized if a pricing basis found acceptable by the individual companies was employed on a sufficiently general scale to affect the general price level of the products involved. This interpretation of the situation is reflected in the memorandum of March 8, 1954 written by Mr. C.W. Porter of Mastex to which reference has already been made:

" . . .

. . . Ian [Waldie, formerly of Web Wrappings] told me that he feels very sure that Bradshaws, Robinsons, Transparent, and all other large converting printing houses, can get together, compare their costs, and work on a profitable basis and the present cost chart is the beginning of this endeavor. I told Ian that we would have no part of any method of pricing unless 100% of the converters were working on the same basis as we had been fooled before and were not interested in advancing our prices in some instances just to let our competitors take business away from us as had happened last Fall. . . .

. . . "

(Serials 8986-87, at p. 1)

On July 8, 1954 Mr. Eby of Nor Baker wrote a memorandum to a company salesman listing certain prices for a particular bag which he described as follows:

" . . .

On the above prices they are based on the new agreed upon association prices and these are estimated on the costing formulas for the entire industry with nothing added on top of them for sales and selling overhead. I have two experiences in quoting the new prices up here and both have been entirely satisfactory. I can understand that there is going to be some shopping and changing around of accounts while things get settled away, but if everyone does their part as they have agreed, then we should be able to run our own business instead of having all of our customers running it for us.

. . ."

(Serial 15331)

Mr. Strickland of Robinson distinguished in his evidence between the associated companies and competitors who had not retained Younger's services:

"Q. I suggest, Mr. Strickland, that the cost formulae were actually price formulae.

A. Never to my knowledge was it classified in our, let us call it, planning on pricing our business. During the period that we used Younger's services a great deal of business we took at a considerably higher price than the average industry cost. We had to, and we were fortunate in probably that we had salesmen who were selling on, let us say, the promotional phase of it rather than strictly a piece of film.

Q. You have a good sales staff, also, have you?

A. I think we have. If we hadn't, we wouldn't be in business today.

Q. Did you take much business on at prices which were lower than the average industry cost?

A. Yes.

Q. A substantial amount?

A. Percentage wise?

Q. Yes, during the period.

A. You mean a substantial percentage at a price lower, or a substantial amount of business?

Q. A substantial amount of business at a price which was below ---

A. I would say quite a nice chunk of business, yes.

Q. During the period you were associated with Mr. Younger?

A. Yes. We were faced with a rather serious problem, as I presume others were also. There was more from what I classify very good competitors, which to the best of my knowledge had no association with Younger, I wasn't going to lose business to those very good competitors; I couldn't afford to. When I say 'very good competitors', they are fine companies who could turn out a good product."

(Evidence, pp. 1912-13)

Stabilization of prices by the summer of 1954 was referred to in a communication dated August 28, 1954 from Mr. E. Johnson of Nor Baker to Mr. Eby of the same company:

"Thinking further on the service E. S. & A. are giving McCormick's this thought came to mind.

Now that our prices are stabilized there is little or no selling point price wise. Therefore our friends are flooding Mc's with service to establish themselves for when the price question comes up as it's bound to & Norm Lindsay & Blake begin to get sore at us fellows.

Let's meet service with service."

(Serial 15361)

A report that the majority of converters were keeping to their price was given in a letter of September 28, 1954 from Mr. Braithwaite of Transparent to the Toronto representative of the company:

". . .

It would appear that you are still not convinced that the new prices are to apply. We have a much broader outlook here from the standpoint that we get reports on practically all the big accounts and how they are being placed. Please be



assured that the majority of converters are keeping to their price and in consequence you must do the same thing. Do not feel that everybody has got an angle because it is not so and we have quite enough evidence to satisfy ourselves in this connection. It is just a matter of plug and keep plugging and eventually you are going to be better off. When in doubt do not hesitate to telephone Charlie Younger who will co-operate with you 100%."

(Serial 9378)

In a memorandum of October 4, 1954 Mr. Johnson of Nor Baker wrote "Now that everyone's price is the same on cellophane . . ."  
(Serial 15449).

The fact that the cost formula was available for reference by any of the associated companies facilitated checking as to the prices of competitors among the associated companies. This is illustrated by the following evidence.

On October 7, 1954, Mr. Parker of Nor Baker sent the following telegram to Mr. Eby, Sales Manager of the company:

"Poly Bag Winnipeg quoting prices four dollars thousand under regular Corona offered this deal on spinach cello and for poly produce bags believe they are cutting in on a number of accounts wire floor prices twenty five and fifty thousand three hundred duplex MST three and half by nine fin bottom for universal confectionery"

(Serial 15395)

On this telegram the following note appears in the handwriting of Mr. Eby:

"Now being cleared with Poly - they will not honour these prices"

Mr. Eby was asked during examination as to the source of his information and gave the following evidence:

"A. From talking to Polyethelene Bag Company.

Q. Did they tell you why they would not honour the prices?

A. They said they had made a mistake in the figuring.

Q. Why did you call Polyethelene Bag about a price they had quoted?

A. Because of information that I got from Mr. Parker.

- Q. Why should you call them? Was it any concern of yours what price they quoted?
- A. Yes, because I was convinced he had made a mistake, and it turned out he had.
- Q. Why were you convinced he had made a mistake?
- A. Because in my figures that I got from our estimating department and checked against the other costing formula, showed me where he had made a mistake."

(Evidence, pp. 2234-35)

In a letter of April 10, 1956 Mr. Eby of Nor Baker wrote to Mr. G.M. Parker of the same company in regard to prices quoted to Kraft Foods Limited:

". . .

We previously have checked with Transparent, Bradshaw's, Robinson's and all of them agreed that they were quoting on a formula basis. They would quote the 500M price as the lowest price applicable to this job, and would not make any concession for 1MM price.

Are you sure that everyone else is quoting on the same size as we, namely  $6\frac{1}{4}$ " x 9", and are they quoting on identically the same specifications.

". . ."

(Serial 15747)

Mr. Kay of Mastex wrote to Mr. Porter of the same company on December 10, 1954 in regard to a lack of orders for printed polyethylene bags and expressed the view that serious price cutting was going on in the trade. His letter includes the following:

". . .

". . . I am sure that you are on top of this situation and are watching things very closely but I am just leaving my thoughts with you since I feel that if things do not alter appreciatively in the next two to three weeks that we should consider some more effective means of giving our boys a little more latitude and encourage them to go out and meet prices. We do not of course want to break down any structure that in

the long run will harm us but we cannot of course stay too long out of any market situation and do not want to be made a sucker out of. As I say, I know that you are quite aware of all these facts but I thought you might like to have my sentiments.

. . ."

(Serial 22955)

Replying on December 14, 1954 Mr. Porter wrote, in part, as follows:

" . . .

Undoubtedly, we have lost some orders on price competition and these have been of considerable concern to me. However, the fact remains that since we increased our prices, we have shown a better margin on our turn-over that [sic] we certainly would have done if we had not put the necessary increases into effect. We feel that if this had not come about at the time it did, that we would be taking around 75% to 80% of our business now at ridiculously low prices that do not show anyone a profit. I know of many cases on orders that we have taken for 250 M and 500 M bags, where we have realised anywhere from \$2.00 to \$4.00 or \$5.00 per M. more, than previously and certainly it does make for a healthier financial outlook, which is what we are in business for. . . .

. . ."

(Serials 22956-57, at p. 1)

It will be recalled that a cost formula was prepared by Younger for specially printed polyethylene bags and that suggested resale prices were issued by Younger for polyethylene stock printed bags. On March 9, 1955 Mr. H.A. Smith of Poly Bag wrote to Mr. Wasyluk, President of the company:

" . . .

MASTEX Ltd.

As per my telephone [sic] discussion [sic] re price cutting of stock printed poly bags. Charlie phoned me on it and conferred with Mastex and Charlie said that they did chisel on size as well as price . . .

. . . MASTEX thru Windsor Paper is offering a 3 lb. printed apple bag at \$16.85 per M for 10 m bags. . . . Will check

with Reg. and Charlie Younger.

. . ."

(Serial 8730)

Writing again on March 12, 1955 to Mr. Wasylyk, Mr. Smith said:

"As per our discussion over the telephone regarding this account, Mastex want to sell a stock printed apple bag 15 x 5 x 3 printed 3 colors in quantities of 10 M with name imprinted at \$16.85 per M thru Windsor Paper. Better still Mastex wants to do a custom job at the above price which Reg Orendorff Salesman for Merchants Paper says is true as the customer Peters is out of bags and wants to place his order. One thing we do know that Windsor Paper is not going to sell this bag order at a loss which means he has Mastex blessing in this scheme of things. Windsor Paper is also selling Remark Orchards as I have a sample bag with his name on it [on] which he pays the above price. This price slashing has happened at Mac Fruit and Johnny's Fruit of Windsor, and now this. Mr. Younger had Clarence Porter admit they chiseled the price the say I told you at Mac Fruit. We have to to [sic] settle this price slash in stock printed bags as it will spill over to our Custom print work. I am not afraid of competition, but I am now of the firm opinion that a price support will stabilize the the [sic] Canadian market whereby everybody will gain if providing everybody works and develops towards developing this Canadian Market. When we lose faith in our fellow Converters we develop a regular rat race whereby nobody gains and we leave this same market undeveloped. I sincerely hope we straighten the above out before we destroy [sic] what has been Accomplished [sic]."

(Serial 23049)

Globe Paper Box Company Limited, which was an associate company of Visipak, became a participant in the use of Younger's services in April, 1955. On April 14, 1955 Mr. Braithwaite of Transparent wrote to his company's Toronto branch in regard to the participation of Globe Paper Box Company Limited, which he referred to as Globe Envelope in his letter:

". . .

#### GLOBE ENVELOPE

Globe Envelope are now members of our group in so far



as cost pricing is concerned. It was however, mutually agreed that for a six month period their reduction of 5% on quotations would be acceptable in relation to certain name accounts. Any other accounts price wise they should be the same as ourselves, however, accounts on which the 5% applies will be as per list attached. We are hopeful that the arrangements made will stop the wild prices again starting to appear in the trade. In any case if you find any instances where this is not being carried out please be sure to let us know.

If the above is not thoroughly understood please let us know and we will illustrate further, however, if it is understood please be sure to go over it carefully with Bill Denney and after same destroy this letter although of course it will be in order for you to keep on file the attached memorandums covering same."

(Serial 9479)

The following is included in the evidence of Mr. Luger, Vice-President of Visipak, in regard to the association of Globe Paper Box Company Limited with the group of manufacturers using Younger's services:

"Q. Did you at any time sell at prices that were below the average industry cost figure?

A. Yes, I would say yes.

Q. Did you do that frequently?

A. I don't know what you would call frequently, but I would say if we were anxious to get an account and it was a substantial account and there was no other way to get it, we didn't bother too much about the costing formula to such an extent, or we used it as a guide. We may have been unhappy that we took business at that price, but we had no way out. We had to keep the machines busy and we took business even if it was lower."

(Evidence, p. 2515)

Also:

"Q. When Visipak became a member of the group of converters in the polyethylene and cellophane industry, was there any meeting about the prices at which Visipak would quote?

A. Well, they had some discussions where we said that we, due to the fact that we were new in the business ---

Q. What was the discussion about?

A. We had several discussions concerning this, before we joined.

Q. What were they about? Who were the discussions with?

A. I think we discussed with Younger. I don't know if we had any discussions in the group or not. I don't quite recall.

Q. What were your discussions with Mr. Younger about prices? What was said?

A. I don't think in particular to prices, but we felt somehow that since we were new in the business that we shouldn't be handicapped in any way.

Q. Handicapped? How do you mean, 'Handicapped in any way'? Do you mean handicapped price-wise?

A. No, I don't think -- we had no arrangement concerning prices or anything of that nature.

Q. Was there an arrangement, Mr. Luger, that Visipak would continue for a period of six months after it became a member of the group, would continue to quote a specified list of accounts at five per cent less than the average industry cost?

A. There were discussions towards something of that nature, but I don't think it was ever finalized."

(Evidence, pp. 2545-46)

It would appear from Mr. Braithwaite's letter of April 14, 1955, quoted above, that he considered that an arrangement had been accepted under which Globe Paper Box Company Limited would be able to quote a reduction of 5 per cent from a recognized price level in making bids to certain accounts.

Writing to the President of the company on May 3, 1955, Mr. Braithwaite of Transparent expressed the view that the polyethylene association prices were not being followed in the trade. His letter went on:

". . .

We know the situation here and are very close to the situation in the Maritimes. It becomes apparent, therefore, there is little use in listening further to the promises and stories which the Winnipeg firms see fit to put out, especially in view of the conditions in relation to Globe Paper who are endeavouring to line up everybody on a large contract basis using the excuse that quotes were out previous to any agreements.

It is estimated, at this time, from our findings that 85% of the polyethylene printed and plain business is being handled by two Winnipeg firms, the other 15% appears to be divided between the rest of the Converters. Unless we take immediate action we will find that we are completely out of the polyethylene picture, while of course, we are equipped to handle as much volume as the biggest polyethylene user in Canada.

This is an intolerable situation and it is suggested that we start immediately and use our own discretion advising those Converters who have undoubtedly endeavoured to meet the situation, namely, Canada Foils, Bradshaws, E.A. & S. Robinson [sic] and Dominion and endeavour to work with them where necessary, but in all other cases endeavour to secure the business on a straight commercial basis using our advantage of location, plus the increased efficiency of our plant to run a suitable increase in volume on a profitable basis.

If you think it advisable we can inform Mr. Younger of our situation to keep it on a straightforward basis as undoubtedly if we telephone Bradshaw's or Robinson they will naturally immediately in turn telephone Mr. Younger.

At the moment the cellophane picture appears to be fairly satisfactory but in view of the fact that we are handling cellophane and polyethylene if a similar situation develops in cellophane we will undoubtedly have to take some similar action.

". . ."

(Serial 9484-85)

The view that price competition with respect to cellophane products was on a small scale was expressed in a letter of September 2, 1955 from Mr. J.A. Lo of Continental to Forester Packagings Ltd.:

"Thank you for your letter of September 1st addressed to Mr. Clarmont, in which you report that the quotations we have given you recently on cellophane have all been too high.

It has come to our attention that one little manufacturer in Montreal has occasionally quoted lower prices than the other convertors [sic] in the industry, of which we are one. Generally speaking, in connection with cellophane our prices are in line with the industry. On made to order plain bags, however, the story is difference [sic]. There are some exceedingly low prices being quoted but in connection with printed cellophane products, so far as we have been able to determine, we are in line with the other convertors, with the exception of the little fellow in Montreal who certainly cannot take all the business and who, I believe, would not be a serious threat in the market.

It has been our experience that very frequently, particularly in the cellophane field, buyers will use the reason for not placing an order that the price is too high. That no doubt is due to the fact that they have to give some reason for not placing the business with a salesman. Actually, there have been cases reported to us from Montreal that our price has been too high but when we have checked we have found the reports have been incorrect. It may be, of course, that you have seen the actual quotations of competitors proving that our claims are not correct but I think you will find that if you get an opportunity of seeing the other fellow's quotation that the information we have given can be confirmed.

We hope you will continue your efforts on our behalf."

(Serial 481)

### 3. Complaints of Price Cutting Discussed at Group Meetings

It has been established by the evidence reviewed earlier that discussions as to the details of costs were carried on at meetings of the cellophane and polyethylene groups. By March, 1956 when the association activities were being handled by Mr. Punfield it appears that both cellophane and polyethylene matters were dealt with at the same meeting. The following is an agenda for a meeting to take place in Toronto on March 20, 1956:

"A meeting of Cellophane and Polyethylene Converters will be held in the writer's suite at the King Edward Hotel, Toronto on Tuesday, March 20th, 1956.



Included in the list of items to be discussed are the following:

1. Cost Survey being conducted re Printed Polyethylene Bags and Printed Polyethylene in Rolls.
2. Report of Committee on Stock Design Polyethylene Bags.
3. Results of Cellothene Cost Survey.
4. Proposed Cellophane Cost Survey.
5. Summer Meeting.
6. Stock Designs for Cellophane Bread Wrappers.

Should you have any other matters you would like included for discussion, please telephone the undersigned.

This meeting will commence promptly at 10:00 a.m.  
Your co-operation in this regard will be appreciated."

(Serial 10757)

The evidence which has been reviewed also establishes that complaints of price cutting were discussed at meetings of the association. In the evidence of Mr. H.A. Smith of Poly Bag, cited in the preceding section, the discussion at one meeting was described as "continual bickering on price cutting and arguing". Mr. Braithwaite of Transparent said in his evidence, also quoted in the same section, that discussions at meetings of what selling prices should be on the basis of costs became "very bitter".

It must be concluded that complaints of the character shown by the evidence must have been related to a standard of prices which it was expected would be applicable in the branches of the industry concerned. This is apparent in a letter of October 19, 1955 written by Mr. H. Wasylyk of Poly Bag to the Montreal and Toronto representatives of the company in regard to a forthcoming meeting of the association called by Mr. Punfield for October 28, 1955 at Montreal:

" . . .

The main reason for both of you to attend this meeting is so you will have the opportunity of laying down the complaints against all others that have not been living up to the gentlemen's agreement regarding competitive prices. As you probably

know, thus far, it has been an organized effort upon a group of converters that were constantly accusing us of being the culprits in the industry. Also, although, time and again you fellows have brought out complaints regarding other converters nothing has been done. This will be your opportunity to lay down your complaints in front of everyone and get them ironed out. But, remember all your complaints will be heresay [sic] but are much more effective if you could obtain concrete evidence.

During the next two weeks when you fellows are out on the road make a list of all the infractions or complaints by the customers or suggestion of any price cutting and have that all prepared when you attend the meeting."

(Serials 23055, 8805)

4. The Association Office as a Clearing House  
for Price Information

The office of Younger, and later of Punfield, was used as a clearing house for pricing information in such a way that members, by telephoning Younger, could and did ascertain the prices at which quotations had been made by other members of the association. It appears, too, that members communicated with Younger when the price of the cellophane raw material increased, registering with him their prices on unfilled orders which they were under an obligation to fill at the prices quoted when the price of cellophane was lower. This summary of the evidence is illustrated by the following extracts:

Mr. S.F. Pearman, formerly General Manager of Dickinson:

"Q. Did you on any occasion ask Mr. Younger to find out at what price a competitor had quoted?

A. Yes.

Q. On a cellophane product?

A. On a cellophane product, yes.

Q. Why did you do that?

A. Two reasons, basically; one, the account -- the business may have been obtained in Winnipeg or Montreal and I did not feel like phoning when I knew that

Mr. Younger would be in touch with either of those districts at some time in the near future, and, secondly, the individual concerned in my particular instance I did not know too well anyway, and did not feel free to speak to them about the business which they had got.

Q. By 'individual' are you referring to the customer or --

A. No, the individual -- the manufacturer. You asked me did I speak to Mr. Younger about prices.

Q. Yes.

A. Well, under those two conditions I would speak to Mr. Younger, yes.

Q. Did you ask any of your competitors at what price they had quoted?

A. On occasions.

Q. Did they tell you?

A. If they felt so inclined. I gave them that opportunity as I was given. Some times they did and some times they did not."

(Evidence, pp. 2182-83)

Mr. Waldie, formerly of Web Wrappings:

"Q. Mr. Waldie, when you first received these formulae from Mr. Younger did you have any outstanding orders with your customers, do you recall?

A. Oh, I would have, yes.

Q. And do you recall whether you notified Mr. Younger of those orders that you had on hand unfilled?

A. Yes, I think I did.

Q. Was that discussed at a meeting to your knowledge, that the converters would notify Mr. Younger of the unfilled orders they had on hand?

A. Well, it might have been. Mr. Younger asked me over the phone.

Q. He asked you to do that?

A. Yes.

Q. Did he tell you why he wanted you to do it?

A. No.

Q. Do you know why he wanted you to do it?

A. Yes.

Q. Can you tell us about that?

A. Those orders might be outstanding at almost any price and he wanted to know what was outstanding at very low prices. That is all.

Q. What at very low prices?

A. Anything that I might have out.

Q. What was the purpose of collecting this information?

A. The purpose of collecting it was that it was hoped that I might get more for my product at some later date.

Q. Did it have anything to do with this formula that Mr. Younger had sent out to you?

A. Yes. Of course, anything outstanding at that time would bear no relation to this at all.

Q. Was it so that people who had received this formula and were quoting on a particular order and were meeting competition would know whether the competition they were meeting was part of an unfilled order?

A. Yes, exactly.

Q. In other words, they would know whether the average industry prices were being observed?

A. That is right."

(Evidence, pp. 55-57)



Mr. Hasler of Bradshaw's:

"Q. When you first started using the cellophane formula, Mr. Hasler, did your Company notify Mr. Younger of the outstanding orders you had on hand at that time for cellophane products?

A. Yes, I believe we did -- no, I do not think -- not on that occasion. There was another occasion that we did, but I don't believe on that occasion. You are speaking of our announcement of the adoption of using the costing formula as a selling price?

Q. Yes.

A. No, I do not think we did at that time, no, but there was one other occasion when we did.

Q. Would you tell us about the other occasion?

A. Yes, when there were -- there was a price increase in the cellophane itself, which required a change in our costing formula by adding a higher material cost. It was suggested that since there were obviously long-term contracts outstanding, some of which there was an obligation to fill at the price at which they were taken, we were asked to file those.

Q. With Mr. Younger's office?

A. With Mr. Younger's office."

(Evidence, p. 1980)

Mr. Wedlock of Wedlock:

"A. . . . Well, in certain cases where we had tried to get a higher price for our goods, and were advised that competition was severe, it very well could have been we would call Mr. Younger and ask him if he knew whether or not any companies were quoting ridiculously low prices, certain of them, and he would advise us whether or not -- he would never know what the price was, but he would be able to tell us, in some cases, whether or not any companies he contacted had quoted a price below cost or not.

Q. Below what cost?

- A. Below the average industry cost.
- Q. Did Mr. Younger ever call you and inquire about a price you had quoted?
- A. I think he called me once."

(Evidence, p. 1841)

It is also apparent from the evidence already reviewed that members of the association considered that they should inform Younger or Punfield when they were departing from a practice previously followed or that they might register with him the details of such a departure. This attitude is illustrated in the following excerpt from a memorandum of April 11, 1956 from Mr. L. G. Ostrom of Bradshaw's to the President of the company:

". . .

In view of the fact that Braithwaite offered the special deal on the printed cellophane roll, I feel that we could have every right to make a special price to this customer on his printed cello bags and any other packaging in our line that he may require, so I told Pinto to be sure and get this customer to give us a chance to quote on any future requirements so that we could look the situation over and possibly make a special offer to this account in view of the fact that it would appear now that it is an open account. At least, I don't see why one of our competitors should be allowed to offer special deals and not the rest of us, and if we register our offer, I can see no reason why we could not make a special deal also.

. . ."

(Serial 14000)

##### 5. The Use of Standard Trade Practices

The form in which standard trade practices were issued by Younger after discussion at group meetings indicates that they were intended to be regarded as established rather than variable practices in the industry. The description of the trade practices given in an earlier chapter of this report makes this clear. It will be recalled that as part of the standard trade practices there was provision that distributors' discounts should be given only to firms so classified. There is evidence that attempts were made to draw up lists of distributors in an effort to deal with this problem.

The documentary evidence shows that the standard trade practices, including the provisions for distributors' discounts, were regarded as forming a part of the accepted price structure of the industry by those firms making reference to such matters and that they considered that the standard trade practices would be regarded in the same way by other members of the association.

For example, salesmen of Mastex were instructed to use the standard trade practices for polyethylene issued by the association. This is shown in the following letter written by Mr. Porter of Mastex on August 3, 1954 to salesmen and to the Winnipeg office:

"Attached please find sheet showing trade practices which please use along with your formula sent you on Friday of last week.

Your particular attention is drawn to the following paragraphs:

No. 6 - schedule of plate and art work charges will be forwarded as soon as received.

No.15 - slug charges apply where a man uses one design of one size and has the words say 'Apples' removed and put in 'Carrots' or if he has three or four different types of apples such as McIntosh, Delicious, Spys, Gravensteins, inserted in a bag of one design.

No.16 - Note schedule of colour change charges - this applies if a customer wants the same design run once and then wants a change of colours on a further run, providing they are of the same measurements.

No.18- This para. applies to bags of different dimensions. Each size bag stands on its own as far as working out a price is concerned.

If there are any further questions, please let us know and we will answer them at once."

(Serial 9016)

In a memorandum of March 2, 1955 to a company salesman Mr. Porter of Mastex set out the reasons for observing the standard trade practice with respect to distributors' discounts:

". . .

There has been considerable controversy over the account of Courchesne Larose and we have the assurance that no distributor's discounts will be allowed to them by any of the converters that have heretofore sold them. However, we cannot control such a situation and it may be that some other converter will run along and offer them a 10% distributor's discount. They definitely are not listed as distributors and we have not listed them as a distributor either and I am very reluctant at this time to authorize you to sell Courchesne Larose at the list price less a discount [sic] of 10%, because it will only mean more trouble, which we are endeavouring to avoid. There are indications that prices are strengthening and we, for one, certainly do not want to upset any possibility of a strengthening in prices throughout the industry and I certainly know that you feel the same way. . . . No matter what you do for this account, I feel sure that our competitors are going to know about it and if we upset the market with an account such as Courchesne Larose, we are letting ourselves into a general demoralization of prices, the opposite of which, we have been striving to correct for several months past and while, in some instances it appears that we are not gaining, in other instances, I can tell you that we are, because most of our Toronto business now is being written at full prices, with of course, the very odd exception and certainly, we as well as our competitors, need the prices as per our costing formula, to be able to come out with some sort of a profit. You can rest assured, Georges, that we intend to keep you competitive at all times and, if we stay on top of this situation, we feel sure that it will ultimately be corrected. Miracles cannot happen overnight, as far as having everybody quote according to any possible line of price but it usually works out to the right side over a period of a year or 18 months.

. . . "

(Serials 9111-12)

Mr. Hayashi of Poly Bag wrote to the company's distributor in Saint John, N.B. on April 27, 1955 as follows:

"According to our agreement with other converters if there is any difference in bag length we do not suggest combining two different lengths in order to arrive at a cheaper price. However, since you have already quoted prices to your customer as such we are enclosing herewith two credit notes Nos. 7099 and 7100 for the adjustment.

. . . "

(Serial 8749)



The documentary evidence with respect to the cellophane standard trade practices is to similar effect as that just reviewed with respect to polyethylene.

The following extract from a letter written by Mr. Eby of Nor Baker on August 10, 1954 to Mr. Parker of the same company illustrates the construction placed on the cellophane standard trade practices as issued by Younger:

"What is the latest story about the printed cellophane in rolls for this account?

You have your list that will give you the price on today's market and in accordance with the standard trade practices which have been agreed upon by all concerned there can only be one arrangement for terms at net 30 days. We intend to stay in line as far as these agreements are concerned and we trust and hope that every other cellophane converter will do the same.

. . ."

(Serial 15351)

Mr. Eby reiterated this view of trade practices in a letter of August 19, 1954 to Forester Packagings Ltd. in which he wrote:

"Answering your enquiry of the 17th regarding the two biscuit bags for this account, there has been a change in the costing formula for all printed cellophane products.

A standard formula is now in use by all cellophane converters and is being adhered to rigidly by the industry. No split deliveries are permitted, artwork and plates must be charged for as an extra. It is our hope that these new agreements will bring a reasonable measure of stability to our industry.

. . ."

(Serial 15354)

A sales representative of Wedlock in Montreal wrote to Mr. Wedlock on September 9, 1954 with reference to an increase in the price of cellophane bags. His letter included the following:

". . .

All in all I still can't make out the heavy increase. It seems to me that it wasn't such a good idea for us to join the combine because I can see where it will hurt me in my sales. Also in spite of all the regulations re non split shipments, there are firms who still accomodate [sic] their customers with split shipments if so desired.

". . ."

(Serial 21491)

Replying to this letter on September 10, 1954 Mr. Wedlock wrote:

"In reply to your letter of September 9, 1954, wish to advise that although the increase in price on the Manoir bags was considerably more than the quotation based on the Denis Quality Product bags, we again reiterate that this increase is entirely justified. We feel absolutely sure that Mr. Denis will not receive a lower quotation than ours and if you find and can prove that he does receive a better price than ours, please wire this information to us immediately.

Before jumping to any conclusions however, be sure that Mr. Denis is not bluffing, since we are almost positive he will not receive a better quotation.

With regard to non-split shipments, we also feel sure that no competitor will split shipments and therefore we should be competitive with other manufacturers in every way.

". . ."

(Serial 21490)

#### 6. Audit of Members' Accounts by Association

In addition to the activities already described, the services of Younger were engaged by the association to make audits of members' accounts. The evidence is not complete with respect to the institution of the audits or the basis on which company accounts were selected for audit. It is clear, however, that the audits were made with respect to the prices charged for the sale of products covered by the formulas and standard trade practices relating to

cellophane and polyethylene products. The cost of such audits was charged to the members on a pro rata basis. This is made clear by a memorandum of April 19, 1955 written by Mr. Bone of Canada Foils to the President of the company:

"CELLOPHANE EXPENSES

Attached is our invoice for \$182.09. This is higher than normally because of some additional expenses which have been incurred in -

1. Auditing
2. Special Meetings

The month of April will also likely be a high one, and after that I believe the amounts will come down considerably and be inclined to level off, since there is now every indication that the Western situation will be cleared up after May, and the trouble in Montreal is also being eliminated, we believe."

(Serial 17920)

Serials 18098 and 18099 constitute respectively an invoice sent by C.W. Younger & Company, dated May 9, 1955 to Canada Foils, Limited assessing Canada Foils for its portion of the expenses of the cellophane association for the month of April, 1955, and a statement of "CELLOPHANE CONVERTERS EXPENSES. APRIL - 1955". Included in this is the following item:

"Administrative charge ( $\frac{1}{2}$ monthly salary - 1 man)	\$200.00
$\frac{1}{2}$ Travelling expenses re audit - Montreal	54.26"

(Serial 18099)

Although some of the witnesses who were questioned about the audit of companies' invoices professed ignorance of it, or were unable to recall the nature of the audit made, other witnesses testified quite definitely that such an audit had been carried out. For example, Mr. Fernie, price estimator for Bradshaw's, testified as follows:

"Q. To your knowledge, Mr. Fernie, did any one from Mr. Younger's office do an audit at Bradshaw's?

A. Yes, there was a partial audit made.

Q. Would you tell us about that, please -- what the purpose was, and the extent of the audit?

A. Well, I could not say as to the extent of the audit. It was just Mr. Punfield, I believe, called, and he would check just certain items.

Q. How often did Mr. Punfield visit Bradshaw's to check items?

A. On two occasions.

Q. Do you recall when those two occasions were?

A. Do I --

Q. Do you recall when the two occasions were?

A. The dates?

Q. Yes.

A. No, I have no record of any.

Q. Do you know in what year that was done?

A. I am not positive, but I believe it would be in 1955.

. . .

Q. Was the audit done by Mr. Punfield to check on the prices at which Bradshaw's had quoted?

A. Yes.

Q. That was an audit of invoices, was it?

A. Hm-hmm.

THE CHAIRMAN:

Q. The answer was -- did you answer 'yes' to that question?

A. Yes."

(Evidence, pp. 2104-06)

Similarly, Mr. Cofsky, Sales Manager and Secretary-Treasurer of Pakit, testified that Mr. Punfield had visited Pakit's offices once to make an audit of the invoices of the company (Evidence, pp. 2854-55).



A document which shows some results of the audits was found in the files of Nor Baker. It was entitled "CELLOPHANE - POLYETHYLENE INDUSTRY REPORT" (Serials 15679-87). No copies of the document were found elsewhere, and although it was not positively identified by any of the few people to whom it was shown, Mr. C.M. Baker, President of Nor Baker, recognized his handwriting on the report (Evidence, p. 2297). From his testimony it seems clear that the document had been prepared by Younger's office:

"THE CHAIRMAN:

Q. Why do you assume that, Mr. Baker? The reason I am asking is that an assumption without some basis does not mean very much to us.

A. I am taking -- well, I know it is my handwriting, so I had it, and if I had it I am assuming it came from Younger because we do not have such a thing -- I know this is Younger's. When I say, 'I know it is Younger's', it must be Younger's. It came out of our file and it is not ours, and I do not know how Younger would get it unless the converters who were doing this work would tell him."

(Evidence, pp. 2299-2300)

Mr. Baker also gave the following evidence:

"MR. THURM:

Q. Have you attended a meeting at which there was a discussion about some one from Younger's office checking the invoices of the members of the association?

A. Yes, there was a discussion about Younger checking on invoices and it is possible that that is where he got that.

Q. To your knowledge did somebody from Younger's office eventually check invoices of the members?

A. Younger did not check ours. Certainly, as far as I was concerned, Younger did not check ours. Younger told me he had checked some.

Q. Did he say he had checked them?

A. Yes -- I don't know whether he said that he -- when I say 'he checked them' I assumed that would be Younger who checked them."

(Evidence, p. 2300)

The nature of the "Cellophane - Polyethylene Industry Report" is evident from its contents. It lists details of individual quotations or acceptances of orders for about 60 customers at prices or terms more favourable to them than those which would have resulted from the cost formulas and standard trade practices during the period October 22, 1954 to March 10, 1955. The converters making these offers or sales are not identified by name but by alphabetical designation. Ten such converters were listed as against 14 then paying dues to the association. Mr. Baker had noted on the copy of the audit report the name of each designated by a letter code. The quotations listed in the audit report involved obviously only a very small part of all the business of such converters. Mr. Wasylyk of Poly Bag testified that his company serviced about 8,000 accounts (Evidence, p. 3036).

It is notable that in the audit report only a very few instances relate to formula prices or standard trade practices with respect to cellophane products. The preponderance of listings relate to polyethylene produce bags. This may reflect the situation referred to in several documents quoted earlier that there was less variation in prices in the case of printed cellophane bags than in the case of polyethylene.

An extract from the audit report will illustrate the nature of the information presented:

"Holland River Gardens - Order accepted by CONVERTER B on Oct. 22/54 for 600 M Cello Bags, 5 x 2 x 11-3/4, 450 MSAT, 3 colors Face, hole punching, at 14.02. Should be 16.32 plus 75¢.

- Order accepted by CONVERTER B on Nov. 2/54 for 150 M Poly Carrott Bags, 1.5 mil, 5 x 2 x 12, 2 colors Face, at 15.21, which was figured on 250 M basis instead of 100 M.

- Order accepted by CONVERTER A on Dec. 13/54 for 100 M Poly Carrott Bags, 1.5 mil, 5 x 1-1/2 x 13, 2 colors Face, at 14.05. Should be 16.32.

- Order accepted by CONVERTER A on Dec. 14/54 for 250 M Poly Carrott Bags, 1.5 mil, 5 x 1-1/2 x 12, 2 colors Face, 1 slug change, at 14.08. Should be 14.54 plus 10.00."

(Serial 15680)

"Willett Fruit - Order accepted on Jan. 6/55 by CONVERTER C  
for 125 M 4 1/2 x 2 1/2 x 17 300 MSAT Cello Celery Bags,  
2 colors Face at 17.03. Should be 19.11.

Order accepted on Jan. 6/55 by CONVERTER C for  
95 M 6 x 4 x 10 300 MSAT Cello Lettuce Bags, 2 colors  
Face, at 13.87 (should be 16.18) and 30 M 6 x 4 x 11 at  
14.26 (should be 20.70)

Order accepted on Jan. 6/55 by CONVERTER C for 175 M  
3 1/4 x 1/34 x 7 1/2 300 MST Cello Dulce Bags, 2 colors  
Face, at 6.67. Should be 7.46.

- On Mar. 7/55, CONVERTER C quoted 8 x 3 x 20, 2 mil.  
Poly Bags, 3 colors, Face, as follows:

10 M - 46.00 - Should be 56.31  
25 M - 44.11 - Should be 50.44  
50 M - 41.88 - Should be 44.11  
100 M - 40.53 - Should be 41.88"

(Serial 15682)

Apart from the results of the audit shown in the "Cello-  
phane - Polyethylene Industry Report" described above and the  
invoices rendered to members for services of Younger which indicate  
that audits were made at Montreal, Ottawa, Winnipeg and Kitchener  
there is practically no other documentary evidence containing specific  
reference to the carrying out of an audit. As travelling expenses  
would not be involved in any activities in Toronto the invoices would  
not necessarily contain any reference to audit work done in that city.  
Mr. Hasler of Bradshaw's recalled that as a result of an argument he  
had with Mr. Wasylyk as to whether Poly Bag was selling at prices  
lower than the cost formula an audit of the latter company's records  
was made with the permission of Mr. Wasylyk by Younger (Evidence,  
p. 1976), who gave the results of the audit to Mr. Hasler (Evidence,  
p. 2009).

In a letter of February 5, 1955 to Mr. Kay, President of  
Mastex, Mr. Porter of the same company referred to an audit as a  
means of determining whether list prices were being charged by  
Campbell. His letter also refers to the question of what firms should  
be entitled to distributors' discounts.

"Campbell stated definitely he is getting list prices on  
bags to Coyle Bros. and unless we can get copy of invoices,  
etc. it is going to be pretty hard to prove otherwise unless the  
audit shows it up. However, Howard promised to check these  
again and I am to contact him on return to Toronto next weekend

and will let you and Garth know further .

Attached letter from Sullivan explains itself. I would like it back to present personally to Younger. I cannot see the Assn. lasting as is as the situation in Quebec & Maritimes is terrible. Wasyluk [sic] has given another of his many promises to fix his distributors but I feel we should not give them past Feb. 20 or March 1st at latest to get prices up. It is most difficult to write business at schedule prices and I do not feel it is always Poly Bag either. Neither is it possible to get copies of quotations, Invoices, etc. from buyers in order to back up our claims. I [sic] also appears silly to keep paying our share of costs when B-E, Haugh-Gordon, Dickinson, etc. do not participate, yet take advantage of price schedules.

. . ."

(Serial 9103)

Mr. Porter said in his evidence that he did not recall audits being made by Younger and he thought that Mastex might be given copies of Campbell's invoices by the customer (Evidence, pp. 1141-43). Mr. Kay gave the following evidence:

"Q. I show you a document 9103 dated February 5th, 1955, obtained from your St. James office. Do you recognize this memorandum?

A. I believe you brought that up yesterday, Mr. Thurm. The only understanding that we have of the audit was a means to assist us in accurately compiling cost information. There were some checks of selling prices against costs merely as verification of the accuracy of our costs.

Q. Did you understand this to be an audit to be done at Campbell Containers?

A. Well, the audit was done, I don't know with how many firms, but wherever it was felt that some of the information which went into the production of the industry for which the cost might be inaccurate, or wherever the particular converter felt that they needed some assistance.

Q. In the next paragraph, first sentence, Mr. Porter refers to the Association. What did you understand by that?



A. I don't understand anything by that other than it might be a loose terminology for the meetings the converters had.

Q. Have you ever heard any other converter refer to that group as an Association?

A. Not particularly, they may well have done.

Q. And then the next sentence states 'Wasylyk has given another of his many promises to fix his distributor, but I feel we should not give them past February 20th or March 1st at the latest to get prices up.' What did you understand that to mean?

A. He may have made a verbal statement publicly, as he has done over several years, that he was going to raise his prices, or he may have or quite probably did publish a list of prices and was not adhering to it himself. At that time the market was extremely depressed and I believe all converters were anxious to, if at all possible, improve the price situation. And if one of the worst offenders in price cutting, generally speaking, issued a list it would tend to strengthen the market up and quite probably all converters, ourselves included, would try and achieve a better selling price situation. If we found the issuance of a price list was more or less of a blind, and we were being embarrassed by some of the quotations made or by orders taken, it would be necessary to take rather drastic action and reduce our basis of quotations. And probably that was the situation referred to there.

BY THE CHAIRMAN:

Q. Again there is a name: Who is 'Campbell'?

A. Campbell would be Howard Campbell of Campbell Containers of Kitchener.

Q. And the name 'Howard' would be the same man?

A. That would be the same party.

Q. Who is 'Sullivan'?

A. Sullivan is our Maritime representative."

In view of the results of the audit as shown in the document "Cellophane - Polyethylene Industry Report", it is obvious that the audit was made to check the selling prices of member companies in relation to the charges which would result from the application of the cost formulas and the standard trade practices to the particular orders reported upon.

## CHAPTER V

### APPRAISAL OF THE EFFECT OF PRACTICES AND ARRANGEMENTS AMONG THE ASSOCIATED COMPANIES

#### 1. The Market for Custom Printed Transparent Packaging Products

It was strongly argued before the Commission by counsel for the associated companies that no definable market could be established for custom printed transparent packagings which were the subject of the inquiry and that arrangements with respect to such products could not be considered apart from the supply of and demand for packagings of all sorts. It is clear that custom printed cellophane and polyethylene bags, sheets and rolls are distinguishable products from other forms of packagings and that they are distinguishable in a number of detailed ways as is established by the evidence of the activities of the associated companies reviewed in preceding chapters.

It was also strongly argued that with respect to custom printed cellophane and polyethylene bags, sheets and rolls the associated companies did not constitute all the firms producing such products as there were a number of other converters engaged in producing transparent packaging. The available statistics as to the production of custom printed cellophane and polyethylene bags, sheets and rolls by the associated companies and by other firms have been reviewed earlier in this report. While the statistical information available has significant limitations which have been described, the Commission is satisfied that the associated companies together accounted for the preponderant part of the production of custom printed cellophane and polyethylene bags, sheets and rolls.

As has already been noted, transparent packaging is one of a variety of packaging materials available to firms wishing to package products. Whether transparent packaging was selected in a particular instance would depend upon the purchaser's assessment of a number of factors which might include price, technical efficiency of the material and its ability to attract the consumer's attention and to maintain his patronage.

The demand for packaging is a derived demand; that is, the demand for it is ancillary to the sale of the packager's product.

This would tend to make the demand for packaging as a whole inelastic as a reduction in its cost or the greater availability of all packaging materials would not lead to a greater demand except to the extent that the supply of products to be packaged increased. The market for packaging materials is affected, of course, by the fact that pre-packaging of consumer goods is being undertaken on an increasingly wider scale.

The availability of Pliofilm, kraft bags, specialty bags (of kraft, glassine, cellucine or foil) or, in the case of importers, the import of produce already packaged in bags, constituted other alternatives available to the individual purchaser of packaging, which tended to make the demand curve for the custom printed products of the individual converter highly elastic.

As against the foregoing factors, two influences worked to reduce the elasticity of demand for custom printed transparent packagings. The first was the superiority of a particular film for a specific use. Mr. Kay of Mastex said, for example, that most automatic packaging machinery is designed for cellophane rather than polyethylene packaging (Evidence, pp. 3071-73). Apparently at one time cellophane was inferior to polyethylene for the packaging of certain products in zero-cold weather conditions (Evidence, pp. 1898-99). Another influence would be the attachment of a user of packagings to a particular transparent packaging which by use over a period of time had become identified by the consumer with his product and thus aided its sale. The user would thus be hesitant to discontinue the use of such established packaging for fear that, in the short run, a change might react adversely on his sales. For example, evidence was given that in the case of cellophane, for which the greater part of the production consisted of printed work, customers would be more anxious to maintain the quality of the printed work than to gain a slight reduction in cost (Evidence, p. 2134).

These factors do not, in our estimation, however, overbear the influence of the great number of factors which made for an elastic demand curve for a particular bag produced by a particular converter. It is obvious that a highly elastic demand curve in the case of an individual converter with unused capacity invites a reduction in price which may lead to increased total revenue by a significant expansion in sales.

On the supply side, a significant development was the rapid expansion in the production of polyethylene film in the post-war period. The increasing availability was both a cause and



an effect of a general downward trend in the price of this film. Mr. Wasylyk of Poly Bag testified that when he began his original business in 1947 the price of polyethylene was \$2.22 per pound, whereas when he gave evidence some polyethylene film was being sold at 48 cents per pound (Evidence, pp. 2895-96). As the cost of film constituted a major item in the cost of a finished transparent bag the price of the latter would also tend to decline, even though conversion costs increased. This would be expected to lead to an enlarged demand for polyethylene bags.

Although the production of cellophane also increased substantially, its price has been rising during the period when that of polyethylene has been falling. A considerable part of the increased production of cellophane would appear to have gone into forms of packaging other than bags with the user making direct use of film (Evidence, p. 1900). This would suggest that, in a relative sense, the use of polyethylene as bags had increased more rapidly than cellophane. This increasing market for transparent bags would provide an incentive for new firms to enter the polyethylene bag industry.

Another factor of importance in the situation is the fact that the capital required to enter the less complex sectors of packaging conversion was relatively low. This appears to have been particularly the case with respect to the manufacture of plain bags, while the capital required to enter into the production of custom printed bags of several colours would be on a much higher scale. Mr. Waldie, formerly of Web Wrappings, said that about \$100,000 in capital was invested to provide an efficient plant of a very small scale producing a small range of products (Evidence, pp. 15-16). The original polyethylene bag machines produced only one bag at a time but current models of machines make three bags at a time (Evidence, p. 1896). The capital required to equip a factory with such large scale machines would be greater, of course, than for simpler machines.

The entry of new firms into the transparent packaging industry, in combination with the downward trend in the price of polyethylene film, would tend to produce greater price competition, particularly in the case of polyethylene bags. This situation is reflected in the evidence reviewed in the preceding chapter which indicated more active price competition in the case of polyethylene bags than cellophane bags.

The general situation in the packaging industry was that the individual converter faced purchasers who had a considerable range of packaging materials from which to choose while, on the other

hand, the entry of new converters and the reduction in the cost of polyethylene created a downward pressure on prices. The oral evidence was generally to the effect that in spite of the rapid growth in the market for transparent bags there was surplus productive capacity at most times, brought about by the entry of new firms and the replacement of old machines by new machines with greater speed and capacity (Evidence, p. 1896). Some entrants to the industry were described as "bedroom" or "parlour" operators who started up sometimes with second-hand machinery and usually had a short period of operation but had a disturbing effect on the trade while they sought business (Evidence, pp. 1688-91). Although, as the description of the companies given elsewhere in this report indicates, at least two of the associated manufacturers, Dickinson and Web Wrappings, ceased bag operations, the evidence does not show that any of the larger converters withdrew from the industry.

The evidence does not establish what factors led to the break-down of the arrangements among the associated companies, but it is possible that the competition of converters not participating in the arrangements contributed to the result. It also appears that there was considerable rivalry between certain members of the association and this, too, may have been influential.

## 2. Conclusions

It is the opinion of the Commission that the arrangements and practices developed by the associated bag manufacturers through their employment of Younger and later of Punfield were intended to and did have the effect of restraining competition in the sale of the products covered by the arrangements. The conclusion of the Commission is reinforced by the fact that at an early stage one of the larger companies announced to the other associated companies that it was prepared to accept the costing formula issued by Younger for the purpose of establishing its selling prices. Such action, the Commission believes, indicates not only the intention of the member making the announcement but also that the course taken would be an acceptable guide for the group as a whole. In the view of representatives of the various companies, as expressed in oral evidence given in the inquiry, there had been no agreement made as to selling prices. In the face of other evidence as to the way the practices were developed and how they were regarded and applied, the Commission is satisfied that there was an arrangement among the parties. It appears to us that the construction placed by witnesses on the participation of individual companies is based on a belief that agreement is reached only when all parties are completely satisfied with all features of a particular arrangement.

A reflection of such a view is given in the following portion of the evidence of Mr. Hasler of Bradshaw's:

"A. I would like to mention here that any meetings I have ever attended, whether it refers to this Association and Mr. Younger's group, there were never complete agreements, believe me. Yes, there were always differences of opinion.

Q. Was the difference usually ironed out?

A. No, I would not -- well, they were ironed out generally by someone simply taking the attitude of saying: 'Well, this is what our company will do and the rest of you can do what you like about it'."

(Evidence, p. 1990)

It was argued strongly on behalf of the parties that the Commission should regard the costing formulas merely as indicators which member companies, particularly those without adequate costing departments, could employ as checks or guides in their individual operations. In view of the evidence as to the way in which the costing formulas were developed and the way in which they were used, the Commission considers that they were means for the establishment of selling prices rather than of costs, and thus operated to lessen competition in price to the disadvantage of purchasers. This would be the case even if the costing formulas were actually representative of the average costs of the industry.

The evidence shows that there was a wide range of costs in the industry, both above and below the average taken. Some firms were relatively high cost in comparison with others, and there were firms with relatively low cost. An arrangement which tended, even to a limited degree, to maintain the position of higher-cost firms in relation to those with lower costs has elements of immediate danger to the public interest. Not only are prices likely to be above the competitive level, but there is also the less efficient use of economic resources by the under-employment of the facilities of the firms with lower costs. In an industry in which there is a wide range of costs for individual firms the competitive process should operate either to bring about a reduction in costs in the higher-cost firms or to lead to the withdrawal from the industry of high-cost producers. The increasing volume of business in the hands of the more efficient plants should lead to further reductions in costs with benefit to the public in the form of lower prices.



The arrangements among the associated companies were of a far-reaching character. The costing formulas were designed to be applied to what might be termed "tailor-made" products, that is, bags and other packagings which were made to the customer's specifications. Consequently, they were of an involved nature to provide for the variety of materials and operations which might be required for a particular order. The formulas were supplemented by standard trade practices which might come to bear on elements of price or service extending beyond the basic price which might be established with the use of the formula. These arrangements as to prices were further supplemented by the exchange of price information through the association office and by the audit of members' accounts which was undertaken. In the audit the prices charged by members were related to prices which might have resulted from the application of the costing formulas and the standard trade practices. The system which was developed through these arrangements could be expected to operate to restrict competition in price among associated companies to a degree which would be prejudicial to the public and would be likely to impede the most effective adoption and use of new technology in the industry.

An amendment to section 19 \* of the Combines Investigation Act, made in the summer of 1960, requires the Commission to make a finding as to whether the arrangement relates only to one or

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\* Subsection 19 (1a) of the Act reads:

"(1a) Where it appears from proceedings taken under section 18 that a conspiracy, combination, agreement or arrangement has existed, the report under subsection (1) of this section shall include a finding whether or not the conspiracy, combination, agreement or arrangement relates only to one or more of the matters specified in subsection (2) of section 32 and, if so, shall include a finding whether or not the conspiracy, combination, agreement or arrangement, has lessened or is likely to lessen competition unduly in respect of one of the matters specified in paragraphs (a) to (d) of subsection (3) of section 32, or has restricted or is likely to restrict any person from entering into or expanding a business in a trade or industry."



more of the matters specified in subsection (2) of section 32\* and, if so, to make a further finding as to whether the arrangement has lessened or is likely to lessen competition unduly in respect of one of the matters specified in paragraphs (a) to (d) of subsection (3) of section 32 \*, or has restricted or is likely to restrict any person from entering into or expanding a business in a trade or industry. In view of the conclusion of the Commission that the restrictive arrangements in the present inquiry related to prices and other matters not specified in subsection (2) of section 32,

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\* Subsections 32 (2) and (3) read:

"(2) Subject to subsection (3), in a prosecution under subsection (1) the court shall not convict the accused if the conspiracy, combination, agreement or arrangement relates only to one or more of the following:

- (a) the exchange of statistics,
- (b) the defining of product standards,
- (c) the exchange of credit information,
- (d) definition of trade terms,
- (e) co-operation of research and development,
- (f) restriction of advertising, or
- (g) some other matter not enumerated in subsection (3).

(3) Subsection (2) does not apply if the conspiracy, combination, agreement or arrangement has lessened or is likely to lessen competition unduly in respect of one of the following:

- (a) prices,
- (b) quantity or quality of production,
- (c) markets or customers, or
- (d) channels or methods of distribution,

or if the conspiracy, combination, agreement or arrangement has restricted or is likely to restrict any person from entering into or expanding a business in a trade or industry."

the Commission is not required to make a further specific finding in the terms of subsection 19 (1a). However the Commission has already expressed its conclusions as to the detrimental effects of the arrangements in lessening competition in the industry.

(Sgd.) C. R. SMITH

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Chairman

(Sgd.) A. S. WHITELEY

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Member

(Sgd.) PIERRE CARIGNAN

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Member

Ottawa,  
December 6, 1960

## APPENDIX

### DESCRIPTION OF COMPANIES NAMED IN THE STATEMENT OF EVIDENCE \*

Bradshaw's Limited, 375 Symington Avenue, Toronto 9, Ontario.

The company was incorporated in 1930 under the Ontario Companies Act. In 1953 the company became a wholly-owned subsidiary of Lawson & Jones, Limited, of London, Ontario.\*\* It was engaged in the conversion of flexible packaging material, including those products with which this inquiry has been concerned. These transparent products, during the relevant period, represented about one-half of the company's total sales. The company has made sales throughout Canada mainly in the Central Provinces where its system of distribution was through salesmen employed by the company. In Quebec City, in Newfoundland and in the Prairie Provinces its sales were made through agents because "these areas do not offer sufficient potential for the Company to warrant having its own sales staff". The company participated in the employment of Younger and Punfield, the last record of payment to the Punfield firm being on May 8, 1956, in respect of expenses for the month of April 1956 (Serials 10978-79). The company's manufacturing operations were carried on in two plants, one in Toronto and the other in Montreal, and its only branch office was in Montreal.

Campbell Containers Limited, 156 Roger Street, Waterloo, Ontario. The company was incorporated under the laws of Ontario in 1949. It is controlled by Raymond's Nut Shops Ltd., of Kitchener, Ontario, which owns 60 per cent of its capital stock. Its business is described as the conversion of transparent packaging material into bags, sheets or rolls. Its only location is at Waterloo. It has sold its products in the provinces of Ontario and Quebec, but very little outside of Ontario. Sales have been direct to manufacturers or other users of packaging material and have been made through salesmen employed by the company. It has not sold through jobbers or agents.

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\* Based on descriptions given in the Statement of Evidence.

\*\* In a letter dated February 4, 1960 the Commission was informed by Dow Chemical of Canada, Limited that the stock of Bradshaw's Limited had been recently purchased by Dow Chemical of Canada, Limited.

The company participated in the employment of Younger and Punfield, the last documentary record of such employment being an invoice dated May 1, 1956, covering expenses for April 1956 (Serials 10988-89).

Canada Foils, Limited, 1891 Eglinton Avenue East, Toronto 16, Ontario. The company was incorporated in 1922 under the laws of the Province of Ontario. The principal business of the company has been the rolling and manufacture of aluminum foil and other metal foil, and the printing and conversion of such foil into packages. It has also engaged in the conversion of transparent packaging materials, which are the subject of this inquiry, chiefly cellophane. While this aspect of its business has been only a small part of the company's total sales, it represented a substantial factor in the cellophane converting branch of the industry. The company's system of distribution for transparent products has been direct to users without the intervention of jobbers or wholesalers. Its sales of these products have been principally in Eastern Canada. All its manufacturing has been carried on in Toronto and it has one branch office in the town of Mount Royal, P.Q. It was associated with the other companies in the employment of Younger and Punfield, and the last documentary record of its participation in the employment of Punfield is found in the latter's invoice dated May 1, 1956, covering expenses for the month of April 1956 (Serials 11001-02).

The Continental Paper Products, Limited, Sun Life Building, Montreal, P.Q. The company was incorporated under Dominion Letters Patent in December 1919. It is a wholly-owned subsidiary of Canadian International Paper Company. Its head office is, or was, in Ottawa and one of its plants was located there until 1959, when it was removed to Pointe aux Trembles, near Montreal. Other plants are at Cap de la Madeleine and Regina. The company is engaged in the conversion of paper and allied materials into paper bags, waxed paper, paper drinking cups and a variety of similar articles. During the years 1954-6 it also engaged, at Ottawa only, in the conversion of cellophane into plain and printed bags. The company's total sales of transparent packaging products have represented only a very small proportion of its total sales, and were chiefly cellophane bags. These were, to a large extent, products purchased from other converters for resale. Sales of polyethylene products have been negligible and the products were purchased from other converters for resale. Sales of transparent packaging materials have been virtually confined to the provinces of Ontario and Quebec, and have represented a very small part of the industry total. These products were distributed through the company's own sales force in certain districts and also through



agents located in the principal cities of Ontario, Quebec and the Maritimes. This company participated in the employment of Younger and Punfield only with respect to cellophane, the last documentary record of its association with Mr. Punfield being an invoice dated May 1, 1956, covering expenses for the month of April 1956 (Serial 11022).

John Dickinson & Co. (Canada) Limited, formerly 799 Beach Road, Hamilton, Ontario. The company was incorporated under the Companies Act of Canada in 1948. By May 6, 1958 it was engaged only in the manufacture of envelopes, business forms, and counter sales books.\* During the period covered by the inquiry, however, it also manufactured flexible bags, including cellophane bags and other converted products made of cellophane, but not polyethylene. It distributed these products in the Province of Ontario and east thereof through its own sales force, through certain commission agents and possibly through jobbers. The records of the company did not reveal whether sales were actually made through jobbers. The sales of cellophane converted products made by this company were small in relation to its total business, and were a minor part of the industry total. In or about May 1956 it discontinued the manufacture of bags, both paper and film and at this time withdrew from association with the other converters in the joint employment of Punfield (Serial 11160). The last documentary record of its participation is an invoice dated May 1, 1956, covering expenses of Punfield for April of that year (Serial 11038). Before this date it had participated in the employment of both the Younger and Punfield companies.

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\* The following additional description is given in the Commission's Report Concerning the Manufacture, Distribution and Sale of Specialty Bags and Related Products:

"The Company was incorporated in 1948 at which time control was held by John Dickinson & Co. Limited, Apsley Mills, England. On December 1, 1956 Willson Stationers & Envelopes Limited, in Winnipeg acquired 50 per cent of the voting shares of the capital stock. Lawson & Jones Limited have controlling interest in Willson Stationers & Envelopes Limited. . ."

Dominion Envelope Company Limited, 39 Green Belt Drive, Don Mills, Ontario. The company was incorporated in 1939 under the Companies Act of Canada. The company was principally a manufacturer of envelopes and specialty bags, but in addition a small part of its production, which also constituted a small part of the total industry, was in products converted from cellophane and polyethylene. These products were all sold in Ontario, Quebec and the Maritime Provinces direct to the user without the use of jobbers or agents. The company was invoiced by the Punfield firm on May 1, 1956, in respect of expenses both for polyethylene and cellophane (Serials 11051-52), and before that time it was associated with the other converters in the employment of Younger and Punfield.

E. S. & A. Robinson (Canada) Limited, 69 Laird Drive, Leaside, Toronto 17, Ontario. The company was incorporated under the Companies Act of Canada on July 22, 1932. It reported its business as the printing and conversion of paper, film and foil materials. These included the transparent packaging products which are the subject of this inquiry, and while such sales represented only a small part of the total business of the company, they were a major factor in the cellophane branch of the industry. The company's only plant was at Leaside and it maintained branch offices in leading cities from Halifax to Vancouver. It is a wholly-owned subsidiary of the English company of similar name. The company has sold transparent packaging products throughout Canada, but the return of information shows that the great bulk of these sales have been made in the Province of Ontario and east thereof. Most packaging products were sold directly to producers, processors or manufacturers of commodities requiring to be packaged, but minor quantities of certain stock items were sold through jobbers and other wholesalers. The company was invoiced by Punfield in respect of both polyethylene and cellophane on May 1, 1956, covering expenses for the month of April (Serials 11122-23), and prior to that time was associated with the other converters in the employment of Younger and Punfield.

Mastex Limited, 1750 Ellice Avenue, Winnipeg 12, Manitoba. The company was incorporated in 1950 under the laws of the Province of Manitoba. The company's head office and principal plant were located in Winnipeg and a second plant at Downsview, Ontario; both were engaged in the conversion of transparent packaging products, but printing was done only at Winnipeg. The company's distribution was carried out largely through its own sales force direct to customers, but in areas not covered by its own sales force sales were also made through wholesalers. It has several branch offices and warehouses located in principal cities from Halifax to Vancouver. Mastex was billed by Punfield on May 1, 1956, for its share of cello-

phone expenses for April 1956 and paid this bill on May 14, 1956 (Serial 11075). Before that time it participated in the joint employment of Younger and Punfield. Press reports on October 7, 1959 stated that the company, and its parent company, had been purchased by Canadian Industries Limited. \*

Nor Baker Limited, 37 Hanna Avenue, Toronto 3, Ontario.

The company was incorporated in 1938 under the laws of the Province of Ontario as Baker Ashdown Limited, adopting its present name in 1948. It was engaged in the manufacture of photo engravings and as a sales office for art work, commercial printing, transparent packaging and folding cartons. The conversion of film for transparent packaging which it sold was done by Commercial Packaging Company Limited. Charles N. Baker, who has the controlling interest in Nor Baker Limited, also has the controlling interest in Commercial Packaging Company Limited. Nor Baker has no factories or branch offices other than the one in Toronto. Its sales have been in Ontario and east, mainly in Ontario and Quebec. Its own salesmen were employed in the distribution of all its printed converted products. The last recorded invoices from Punfield were dated May 1, 1956, covering expenses for the month of April 1956 (Serials 15754, 15756), and prior to that time Nor Baker had subscribed to the services of Younger and Punfield.

National Carton Specialties Limited, 5149 Marquette Street, Montreal, P.Q. The company was incorporated under the laws of the Province of Quebec in September 1950. It has been engaged in the manufacture of paperboard boxes with transparent windows for the packaging of tomatoes, and also in the manufacture of the transparent packaging products which are the subject of this inquiry. During the relevant period its sales were to a minor extent made direct to consumers and the balance were made to jobbers in the Montreal, Toronto and Quebec City areas. The company is under the same management control as Pakit Inc. of Montreal, both companies having the same

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\* In a letter dated January 21, 1960 to the Director Canadian Industries Limited stated that it had purchased the assets of Mastex Limited and that these assets were assigned on October 5, 1959 to a wholly-owned subsidiary, Mastex Industries Limited. The former Mastex Limited continued its corporate existence but by supplementary letters patent had its name changed to Kafax Industries Limited.



President, Mr. Jack Lieberman, who is a 50 per cent shareholder in both companies. The evidence of Mr. Lieberman was that 80 per cent of the products covered by the inquiry were sold to Pakit (Evidence, pp. 2660-68). Mr. B. Cofsky, the Secretary-Treasurer and Sales Manager of Pakit, frequently represented the companies at meetings of the converters who subscribed to the services of Younger and Punfield (Evidence, pp. 2821-35). A return of information was also filed by Pakit under date of March 31, 1958. This stated that its sales were made through salesmen direct to users in the Ontario and Quebec market.

Invoices from Punfield for the months of January to April 1956 inclusive, found in the files of the Punfield company, and addressed to National Carton Specialties Limited, were all endorsed "cancelled", and invoices to other companies for the month of April 1956 were endorsed "Please note, your percentage of expenses adjusted re National Cartons and Web Wrappings" (Serials 15756, 10885, 10886, 10888, 10890). Prior to this time they subscribed to the employment of Younger, the first record being a payment in August 1954, covering the months of May, June and July of that year (Serials 20633, 20418). For cellophane the first record of their participation was in respect of March 28 to May 31, 1954, paid on June 14, 1954 (Serial 20672). The last payment was in respect of December 1955 (Serial 20416).

Polycraft Company Limited, 1002 Canada Cement Building, Montreal, P.Q. The company was incorporated under the Companies Act of Canada in 1951. Its head office and one plant were located in Montreal. It engaged in the conversion of the transparent products which are the subject of this inquiry. Since July 5, 1954, the company has been wholly-owned by Acer, McLernon Incorporated, of Montreal, and this company has been its general sales agent throughout the relevant period. Sales were confined to Ontario and east. The company was invoiced by Punfield on May 1, 1956, for expenses for the month of April 1956 (Serials 8298, 8300), and before that it had subscribed to the services of Younger and Punfield.

Polyethelene Bag Mfg. Co. Ltd., 335 Tweed Avenue, Winnipeg 5, Manitoba. The company was incorporated under the laws of Manitoba in September 1951. It engaged in the conversion of the transparent packaging products which are the subject of this inquiry. It sold its products from coast to coast but very little, if any, were sold in the Province of British Columbia during 1954 to 1956. In those years the company's sales were, in approximate terms, about 50 per cent in the Prairies and about 50 per cent in Eastern Canada.



Its list of jobbers and wholesalers covers most of the principal cities of Ontario and Quebec and the Prairie Provinces. The company was invoiced by Punfield on May 1, 1956, for expenses for the month of April 1956 (Serial 11111). Prior to that it had subscribed to the services of both Younger and Punfield, the first record being an invoice dated June 11, 1954, for expenses from March 28 to May 31, 1954 (Serials 8606-07, 8616-17).

Transparent Paper Products Limited, 6005 Côte de Liesse Road, Montreal 9, P.Q. The company was incorporated on June 18, 1947, under the laws of the Province of Quebec. The company was founded by J. C. Hebert and was owned and controlled by him until February 1955 (Evidence A, pp. 4-5). The return states that, in January 1955, three-quarters of the common and preferred stock of the company was acquired by Transparent Paper Limited, of London, England. In October 1957 approximately 42 per cent of these holdings were sold back to Mr. J. C. Hebert. In March 1956 the company acquired Web Wrappings Limited, to which reference will be made below. The company maintained one plant in Montreal and a sales office in Toronto for the conversion and sale of flexible packaging products which are the subject of this inquiry. Sales were confined to Ontario and east, and were made largely through the company's own selling organization, supplemented by one jobber during the relevant period. The evidence is that Transparent never did subscribe to the services of Punfield and withdrew their support of Younger in October 1955 (Evidence A, pp. 23-24). There is a record of its payments to the Younger company for the period March 28 to May 31, 1954 (Serials 9343-44), and subsequent payments for expenses relating to both cellophane and polyethylene, including one for July and August 1955 (Serial 9518).

Visipak Limited, 745 Guy Street, Montreal 3, P. Q. The company was incorporated under the laws of Canada as Vis-pak Limited in 1954, and its present name was adopted in March 1955. It reported the company's business as being the manufacture of transparent packaging products, being those products covered by this inquiry. It has maintained one plant at Montreal and has sold its products in Ontario and east, mostly through its own sales force supplemented by some jobbers in Montreal, Toronto and Ottawa. This company and Globe Paper Box Company Limited, of Montreal, are related by reason of the fact that they are in the same building, share the same sales staff and are owned by members of the same family (Evidence, pp. 2801-05, 2501-05). Globe participated in the employment of Younger at least as early as May 1955 (Serial 6912, Evidence, p. 2507) and continued into the Punfield period. The last invoices from Punfield were dated May 1, 1956, for April expenses of cellophane

(Serial 7211) and polyethylene (Serial 11141). Arrangements for participation of Visipak were apparently made just prior to April 7, 1955 (Serial 6889).

Web Wrappings Limited. The company was incorporated under the laws of the Province of Ontario in 1951. Its President and major shareholder was Ian S. Waldie. It was engaged mainly in the production of those cellophane and polyethylene packaging products which are the subject of this inquiry (Evidence, pp. 11-15). The company was located in Leaside and later in Ajax, Ontario. No return of information was received from the company, as it was at the time in bankruptcy. The information as to its address was received from the Trustee in Bankruptcy, who was unable to supply further information as requested by the return of information. The company was acquired by Transparent Paper Products Limited on March 1, 1956, by purchase of the shares from Mr. Waldie (Evidence A, pp. 5-6). Mr. Hebert (of Transparent) said that when Web Wrappings was acquired its connections with Punfield were terminated (Evidence A, p. 28). Copies of invoices to Web Wrappings, found in the files of the Punfield firm, indicate that Web Wrappings paid its bills for January and February 1956 (Serials 10705-08). Invoices for April 1956 rendered by Punfield to other companies were adjusted because expenses for that month were not paid by Web Wrappings and National Carton. Prior to April 1956 the company participated in the employment of Younger and Punfield.

Wedlock Paper Bag Company Limited, 1209 King Street West, Toronto 3, Ontario. The company was incorporated in February 1932 under the laws of the Province of Ontario. In addition to the products covered by this inquiry it manufactured specialty paper bags, foil bags, carry-out bags and sewn liner bags. During the period with which this inquiry is concerned, transparent packaging products were a minor part of the company's total activities. The company's return of information stated that its sales were made from coast to coast, but reported sales figures showed that practically no sales were made either in the Prairies or British Columbia. Sales were made directly to the final buyer, very little being through distributors or jobbers. Invoices from C. W. Younger & Company in the company's files indicate that it participated in the employment of Younger from the beginning and that its last payments in respect of cellophane and polyethylene were made in March 1955 for February expenses (Serials 21774, 21776, 21714, 21703). These invoices were marked "Final Invoices".















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